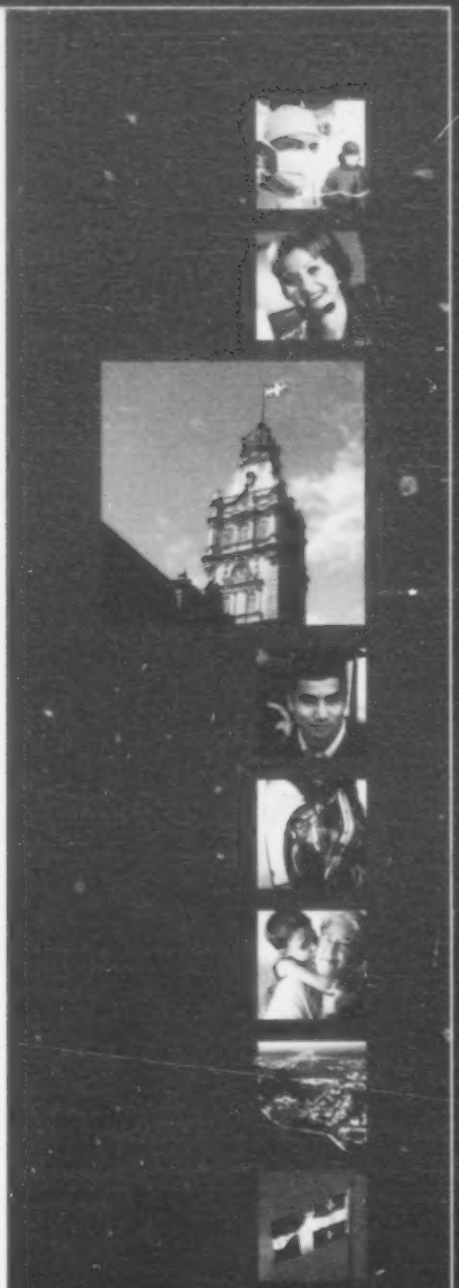
Parliamentary Reform

SHINE AMONG THE BEST

SUMMARY OF
PROPOSALS



Québec

Parliamentary reform

SUMMARY OF
PROPOSALS

Jacques P. Dupuis
Government House Leader
Minister for the Reform of Democratic Institutions

BIBLIOTHÈQUE
15 MAR. 2005
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Jacques P. Dupuis
Government House Leader
Minister for the Reform of
Democratic Institutions

Dear Fellow Citizens,

Dear Colleagues of the National Assembly,

In his opening speech of the current parliamentary session the Premier of Québec, Mr. Jean Charest, entrusted me with the duty of presenting a comprehensive plan for the reform of our democratic institutions.

The Government is now moving forward by submitting a parliamentary reform package comprising 140 proposed changes. This is only the first component of our comprehensive reform plan. It will be followed by a reform of the electoral system and an overhaul of the *Election Act* intended to favour the exercise of the right to vote.

The present document sets forth the highlights of the proposed parliamentary reform, which will profoundly transform the way the National Assembly conducts its business, the manner in which the elected Members go about their work, and the relationship between the executive and legislative powers. These proposals also aim to establish a more direct contact between the population and their elected representatives. In short, the main objective of this reform is to make the National Assembly a resolutely modern and open Parliament.

All Members of the National Assembly are urged to work together, regardless of their political allegiance, to redefine the foundations of parliamentary life in Québec. I invite all those who take an interest in the vitality of our democratic and parliamentary institutions to make their reactions known, to ask questions, and to propose whatever changes they deem useful and responsive to their concerns. For above all else the National Assembly is your Parliament.

Jacques P. Dupuis

Summary **OF PROPOSALS**

This parliamentary reform package, submitted to the Members of the National Assembly (MNAs) by the Government House Leader and Minister for the Reform of Democratic Institutions, Mr. Jacques P. Dupuis, is the first component of a comprehensive plan to reform our democratic institutions that the Premier, Mr. Jean Charest, announced in his opening speech for the spring of 2004.

The proposed reform is a major undertaking. It comprises 140 proposals that will bring about significant change both in the relationship between citizens and their elected representatives and in the way the National Assembly conducts its business. Indeed, this is the most ambitious initiative for parliamentary renewal in the past 20 years.

Many still perceive the National Assembly as an institution that is remote from the citizenry. This perception does not do justice to the work that parliamentarians actually accomplish. It nonetheless derives from many first- or second-hand experiences that warrant the proposed effort to correct our practices in order to help restore confidence in the institution that stands at the very centre of Quebecers' democratic life.

The proposals submitted by the Government House Leader and Minister for the Reform of Democratic Institutions pursue the following four objectives:

- An increase in the participation of citizens in parliamentary life.
- The enhancement of the role played by the Members.
- The modernization of the National Assembly's organization and proceedings.
- A redefinition of the relationship between the Executive and the Legislature.

ON INCREASED CITIZENS' PARTICIPATION

Citizens have little opportunity to intervene directly in parliamentary proceedings. Members table petitions on their behalf in the Assembly. Groups and individuals who wish to present briefs during public consultations may do so, but they will be heard in person only if they are invited. It is not surprising that citizens feel excluded from what some call "the people's house." The present parliamentary reform aims to allow citizens to participate more fully in the exercise of democracy. Under these proposals:

- Citizens would be able to submit their own petitions to the Members. A subcommittee would receive these petitions and could hear the petitioners so that they might present their grievances to their elected representatives in person. The subcommittee would see to it that the Government replies to any petitions submitted within 30 days. Petitions could also be posted on the Internet in order to obtain citizens' support.
- The participation of citizens in the proceedings of parliamentary committees would be facilitated. Committees ought to travel in order to hear citizens in their own communities, and they ought to make greater use of new technologies such as videoconferencing to allow the participation of citizens who live in remote regions or who are unable to travel. Moreover, it would be possible for citizens to intervene in parliamentary committees without presenting a brief. A period of time would be set aside during which they could present their views on the subject under consideration. These interventions could also take place in the context of forums allowing freer exchanges between citizens and their elected representatives.

ON THE ENHANCEMENT OF THE ROLE PLAYED BY THE MEMBERS

The Members are too often perceived as players whose individual influence is diminished by party discipline. Earlier parliamentary reforms sought to correct this perception. Unfortunately, it still persists, and one must acknowledge that it is not entirely false. Certain measures must be envisaged in order to restore a more important role to Members. Under these proposals:

- Party discipline would be relaxed through a procedure for the voting of bills comprising three categories. The Government House leader would indicate to the Members in the governing party upon the introduction of any bill whether they were free to vote as they wished, whether Cabinet ministers and their parliamentary assistants were required to observe ministerial solidarity, or, finally, whether all Members in the governing party were expected to vote for an agreed-upon position.
- The Members would be consulted regarding the appointment of the officers of the National Assembly (e.g., the Chief Electoral Officer and the Auditor General). Parliamentarians could submit to the Premier a list of candidates whom they considered qualified for the position to be filled. The Premier would then recommend his or her candidate to parliamentarians from among those included on this list.
- A period would be set aside for Statements by Members during each day's proceedings in the Assembly. Each statement would allow a Member to speak briefly to call attention to some event, to welcome a distinguished visitor, or to take up any other subject of his or her choosing.
- A period would also be devoted each day exclusively to the business of private Members (i.e., Members of the Assembly who do not sit in Cabinet). During this period Members could debate motions or bills intended to allow more substantial exchanges on subjects of their choice.
- The Members would be called upon to adopt a code of ethics and to create a position of independent Ethics Commissioner whose incumbent would report directly to the National Assembly and would be appointed by its Members.

ON THE MODERNIZATION OF THE NATIONAL ASSEMBLY

Outside observers and the general public have severely criticized a number of aspects of the way the National Assembly conducts its proceedings. For example, it is difficult to understand why the Assembly passes bills in such haste in June and December while working to an intensive schedule that is scarcely conducive to rigorous deliberation. Furthermore, it is sometimes pointed out that the most serious parliamentary business is that which is done in committees. Yet a variety of constraints prevent the most efficacious possible use of these high points in the parliamentary proceedings. Nor does oral question period escape criticism. Some have noted that the televising of the debates has revealed an undisciplined side of the elected Members that ultimately tarnishes their image. As well, the sequence of the proceedings causes delays, with the result that hearings of groups or individuals by parliamentary committees must be postponed or cancelled. Finally, the rules governing the recognition of parliamentary groups must be revisited. In other words, changes are needed to correct the most inefficacious aspects of

the organization of the National Assembly's proceedings. Under these proposals:

- The p. liamentary calendar would be modified so that the Assembly would sit from mid-February to mid-June and from mid-September to mid-December. The extended hours of meeting in effect during certain periods of the year would be abolished.
- The procedure for questions and answers period would be amended to limit the possibility for overly partisan exchanges and abuses of procedure. The length of questions and answers would be set at 55 seconds for the Leader of the Official Opposition and the Premier and at 35 seconds for everyone else. Points of order would be deferred until the end of questions and answers period.
- A party must currently have twelve (12) elected Members or obtain 20% of the popular vote to be recognized as a parliamentary group. These criteria seem too strict, for they do not accurately reflect the popular support that certain political parties may receive. Accordingly, they should be revised. The number of elected representatives required would be reduced to six (6), and the percentage of votes to be obtained would be set at 15%.

ON THE REDEFINITION OF THE RELATIONSHIP BETWEEN THE NATIONAL ASSEMBLY AND THE GOVERNMENT

In principle, the Members pass our laws, which are administered by the Government and the Administration. In principle, furthermore, the Government is answerable to the National Assembly and must enjoy the confidence of a majority of the elected representatives. In practice, however, the Government exercises such a firm control over the parliamentary proceedings that some believe it contributes to lowering the esteem in which the National Assembly is held, regardless of the political party in power. Thus, the Government decides which bills will be considered and passed; it can even suspend the application of the rules so as to force the passage of bills. The information that the Government provides parliamentarians and the public, both when bills are introduced and when they are considered, is minimal. The surveillance that the elected representatives exercise over Government spending and priorities is inadequate. In short, the relationship between the National Assembly and the Government is unbalanced in the Government's favour. A redefinition of this relationship is thus required in order to restore to all the elected representatives the role they ought to play as legislators and as controllers of Government activity. Under these proposals:

- The mechanisms for expressing the confidence of the Assembly in the Government would be revised. Parliamentarians would be called upon to vote on the general policies of the Government announced in the opening speech. It would be necessary as well to clarify the consequences of adopting a want of confidence motion or of refusing to pass a bill. To that end, when a want

of confidence motion has been adopted or a bill has been negatived, a motion of confidence would automatically be placed on the Order Paper (an official publication listing the matters before the Assembly) for debate. The outcome of the vote would make clear to all that while the Members may have rejected a particular measure put forward by the Government, they have done so without withdrawing their confidence in it.

- Government bills and private Members' bills, when introduced, would be accompanied by more comprehensive explanatory documents so as to better inform the Assembly and the general public about their orientations, intended effects, and possible costs.

- Except as otherwise provided, a bill introduced during one sessional period would not be passed until the following sessional period. For example, a bill introduced in the spring would be passed only after the resumption of proceedings in the fall. Moreover, the Government would be able to resort to the suspension of rules (the gag) to speed up the passage of only one bill at a time.

- Ministers should not take part in the clause-by-clause consideration of bills as members of parliamentary committees. Instead they should appear at the witness table to defend their bills; they would be entitled to move amendments but not to vote. Ministers would, however, continue to participate in their capacity as parliamentarians during public consultations on bills or other matters falling under their ministerial purview.

- The process of accountability for and control over the Government's spending and budgetary orientations would be reviewed to ensure more cohesion in the parliamentary proceedings.

PROCESS LEADING TO THE ADOPTION OF THE PARLIAMENTARY REFORM

It is customary for amendments to the rules for the conduct of proceedings in the National Assembly to be made only with the consent of all its Members. That is why the Government House Leader and Minister for the Reform of Democratic Institutions is submitting this reform package to parliamentarians. All Members of the National Assembly are invited to enrich this debate and to work together, regardless of their political allegiance, to redefine the foundations of parliamentary life in Québec.

Interested citizens can express their points of view, ask questions, and submit proposals by getting in touch with their MNA or by communicating with the Minister. They will also have an opportunity to comment on these matters during the public consultation planned for this fall to examine the modifications proposed to the electoral system.

The changes proposed here are major. If adopted, they would bring about a profound transformation in the relationship between the elected Members and the population, in the conduct of the National Assembly's proceedings, in the way parliamentarians work, and in the relationship between the Government and the elected representatives. Finally, the Minister is proposing a permanent mechanism for the review of the rules for the conduct of proceedings so that the institution of Parliament may remain more sensitive to the need to adapt itself continually without awaiting manifestations of disillusionment or loss of trust on the part of the population in order to act.

BIBLIOTHÈQUE
15 MAR. 2005
ASSEMBLÉE NATIONALE

For information, please contact your Member of the National Assembly:

- by ordinary mail:

  Hôtel du Parlement
  Québec (Québec) G1A 1A4

- by e-mail, using the list of the Members' addresses on the National Assembly's Web site at: http://www.assnat.qc.ca

You may also get in touch with the Government House Leader and Minister for the Reform of Democratic Institutions:

- by ordinary mail:

  Office of the Government House Leader
  Minister for the Reform of Democratic Institutions
  Édifice Pamphile-Le May
  1045, rue des Parlementaires, bureau 1.39
  Québec (Québec) G1A 1A4

- by e-mail:
  ministre.srid@mce.gouv.qc.ca

Finally, you may consult the Web site of the Secrétariat à la réforme des institutions démocratiques at: www.mce.gouv.qc.ca/srid

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Minister for the Reform of Democratic Institutions

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Jacques P. Dupuis
Government House Leader
Minister for the Reform
of Democratic Institutions

Dear Fellow Citizens,

Dear Colleagues of the National Assembly,

In his opening speech of the current parliamentary session the Premier of Québec, Mr. Jean Charest, confided to me the duty of presenting, in the spring of 2004, a comprehensive plan for the reform of our democratic institutions. More precisely, he indicated the direction this project was to take: "We want every citizen in Québec to feel that he or she has the power to change things and to feel encouraged to exercise his or her right to be heard."

The Government is now taking action by submitting this plan for parliamentary reform, which comprises 140 proposals for change. This is only the first component of our comprehensive reform plan; it will be followed by a revision of the electoral system and an overhaul of the *Election Act* designed to favour the exercise of the right to vote.

The changes proposed are major and affect all aspects of parliamentary life. They are based on frank and lucid observations of situations that need to be improved. The document may seem to make dry reading; indeed, it does require some knowledge of how the National Assembly works. However, the proposals it contains clearly indicate the nature of the desired changes.

There is no doubt that these proposals will profoundly transform the way the National Assembly conducts its business, the way the Members go about their work, and the relationship between the executive and the legislative powers. They also strive to establish a more direct contact between the population and their elected representatives. In short, the main goal of these reform proposals is to make the National Assembly a resolutely modern and open Parliament.

All Members of the National Assembly are urged to work together, regardless of their political allegiance, to redefine the foundations of parliamentary life in Québec. Over and above any changes made, our fellow citizens will judge us on our ability to bring this project to fruition within a reasonable period of time.

I therefore invite all those who are in any way interested in the vitality of our democratic and parliamentary institutions to make their reactions known as well as to ask whatever questions and to propose whatever changes they consider useful and that speak to their concerns. Those interested can do so by contacting either their Member of the National Assembly or me personally. For above all else the National Assembly is your parliament.

Jacques P. Dupuis

TABLE OF **CONTENTS**

INTRODUCTION 7

1. Citizens' Participation in Parliamentary Life 13
   - 1.1. Exercising the Right to Petition 13
   - 1.2. Citizens' Participation in the Proceedings of Parliamentary Committees 14

2. Enhancement of Members' Role 15
   - 2.1. Statements by Members 15
   - 2.2. Private Members' Business 16
   - 2.3. Amendments to Items of "Opposition Members' Business " and "Private Members' Business 17
   - 2.4. Estimates of Expenditure of the National Assembly 17
   - 2.5. Code of Ethics and Ethics Commissioner 17
   - 2.6. Selection of Officers Appointed by the National Assembly 17
   - 2.7. Party Discipline and Free Votes 18
   - 2.8. Follow-up to the Parliamentary Reform by the Members 19

3. Modernization of the National Assembly's Organization and Proceedings 21
   - 3.1. The Assembly 21
     - 3.1.1. Quorum of the Assembly and of the Committee of the Whole 21
     - 3.1.2. Parliamentary Groups 21
     - 3.1.3. Parliamentary Calendar 22
     - 3.1.4. Hours of Meeting of the Assembly 23
     - 3.1.5. Oral Questions and Answers 24
     - 3.1.6. Questions Regarding Speeches 25
     - 3.1.7. Adjournment of the Debate 26
     - 3.1.8. Electronic Voting 26
     - 3.1.9. Appointment of the Secretary General and of the Associate Secretaries General of the National Assembly and Length of Their Terms of Office 26
   - 3.2. Committees 27
     - 3.2.1. Fields of Competence of Committees 27
     - 3.2.2. Committee on Parliamentary Procedure and Affairs 27
     - 3.2.3. Number of Committees Authorized to Meet Simultaneously 29
     - 3.2.4. Hours of Meeting of Committees 29
     - 3.2.5. Appointment of Committee Clerks 30

4. Redefinition of the Relationship Between the Executive and the Legislature 31
   - 4.1. Expression of the National Assembly's Confidence in the Government 31
     - 4.1.1. Vote on the General Policies of the Government 31
     - 4.1.2. Motions of Want of Confidence and Motions of Confidence 31
   - 4.2. Legislation 32
     - 4.2.1. Documents Accompanying Bills 32
     - 4.2.2. Lieutenant-Governor's Recommendation 33
     - 4.2.3. Time Limit Between Royal Assent and the Coming into Force of an Act 33
     - 4.2.4. Examination of Draft Regulations and Regulations 34

4.3. Legislative Procedure 34
4.3.1. Time Limit for the Passage of a Bill 34
4.3.2. Closure Motion and Motion to Suspend Certain Rules of Procedure 35
4.4. Control of the Executive 37
4.4.1. Reorganization of Parliamentary Control 37
A. Estimates of Expenditure 37
B. Financial Commitments 37
C. Accountability 37
a. Before the Committee on Public Administration 37
b. Before the Other Standing Committees 38
4.4.2. Interpellations 38
4.5. Ministers in Committees 39

ANNEX 1: Private Members' Business 41
ANNEX 2: Appropriations "To Be Voted" by the National Assembly 43
ANNEX 3: Parliamentary Calendar and Hours of Meeting 45
ANNEX 4: Routine Proceedings and Orders of the Day 47
ANNEX 5: Names and Terms of Reference of the Standing Committees 49

Introduction

The Legislative Assembly–since 1968, the National Assembly–has thoroughly modified its Standing Orders on three occasions during the past century:

- the 1941 Standing Orders, known as the Geoffrion Standing Orders, from the name of the then Clerk of the Legislative Assembly, Louis-Philippe Geoffrion; these Orders remained in effect until 1972;
- the 1972 Standing Orders, also known as the Lavoie Standing Orders, from the name of the then President of the National Assembly, Jean-Noël Lavoie; these Orders remained in effect until 1984;
- the current Standing Orders, in effect since 1984.

Partial, permanent, or temporary amendments have been made at various times to these successive Standing Orders as well as to the *Act respecting the National Assembly*.

The perspective in which these parliamentary reforms have been carried out has invariably been to modernize the institution of Parliament so as to allow it to fulfill its legislative and political functions efficiently while maintaining a certain balance among the parties represented within it.

Three dimensions were given particular consideration in the operation undertaken in 1982 and completed in 1984:

- reaffirm the principle of the independence of the National Assembly vis-à-vis the Executive by shielding the Assembly, albeit modestly, from the ascendancy of the Executive;
- provide parliamentary committees with an organization and powers sufficient to confer upon them relative independence from both the Assembly itself and its Government majority;
- enhance the role of the Members.

It must be admitted that the results of these changes have not met the expectations that inspired them. From one precedent to the next, from one interpretation to the next, from one amendment to the next, practices have slipped into the activities of the Assembly and its committees that, without entirely voiding the benefits that had been expected and, in certain cases, achieved through the reform, have at the very least attenuated them. This fact is attested by the report of the Comité de réflexion sur le travail des commissions[1] (Working Group for the analysis of committee proceedings), presented in June 2000 and entitled *De la nécessité du contrôle parlementaire. Pour des commissions parlementaires stimulantes et performantes* (On the need for parliamentary control. For stimulating and effective parliamentary committees). No action was taken on this report.

One must be frank in admitting that many still perceive the National Assembly as an institution that is aloof from the Citizens, that does not always take account of the population's expectations regarding its work, and that both cares little about efficiency and is loath to accept any radical change in the way it conducts its business. To be sure, this perception does not do justice to the work that parliamentarians actually accomplish. It is nonetheless based on a certain number of situations whose veracity has been confirmed by many persons and groups who regularly or occasionally follow or participate in parliamentary proceedings.

Among these situations one finds:

- a framework for interaction between parliamentarians and citizens that is perceived as rigid and fails to allow the latter to exercise real influence over debates and decisions;
- a question period that more closely resembles a verbal sparring match on the topic of the day, in which it seems more important to cast one's political adversary in an unfavourable light than it is to raise well-founded questions about the Government's actions or to properly inform the population;
- a parliamentary calendar that is better suited to pursuing stratagems and tactics intended, variously, either to stall the proceedings or to precipitate them than it is to ensuring sustained parliamentary deliberations nourished by debates destined to shed light on the matter under consideration;
- a set of procedures for surveillance over the Government's activity and spending that are of doubtful efficacy;
- an organization of the daily proceedings that often makes scheduling unpredictable, in particular when public consultations are under way in parliamentary committees;
- a National Assembly and its Members who are subject to rules of accountability and ethics that are less demanding than those which parliamentarians impose on vast segments of society through the laws they pass.

1. The Working Groupe comprised Ms. Monique Gagnon-Tremblay, Chair of the Committee on Social Affairs; Mr. Claude Pinard, Vice-President of the National Assembly; Mr. Matthias Rioux, Chair of the Committee on Culture; and Mr. Sylvain Simard, Chair of the Committee on Public Finance.
http://www.assnat.qc.ca/archives-36leg1se/fra/Publications/rapports/rapref.html

The Government cannot correct this situation solely through its own efforts. Traditionally the consent of all Members of the National Assembly is required in order to amend its rules of procedure. That said, the Government can and must assume the role of leadership that is vested in it, which derives from the responsibility of the ministerial majority to set the priorities for parliamentary business.

The proposals submitted by the Government House Leader and Minister for the Reform of Democratic Institutions represent the point of departure for a process that will lead all parliamentarians to agree upon the changes to be made to the *Standing Orders of the National Assembly*, to its Act, and to the passage of such other legislative measures as may enable it to attain the following four objectives:

- an increase in the participation of citizens in parliamentary life;
- the enhancement of the role played by the Members;
- the modernization of the National Assembly's organization and proceedings;
- a redefinition of the relationship between the Executive and the Legislature.

ON INCREASED CITIZENS' PARTICIPATION

Citizens have little opportunity to intervene directly in parliamentary proceedings. On the one hand, the Members table petitions on their behalf before the Assembly. On the other hand, although groups and individuals who wish to do so may present briefs during public consultations, they will be heard only if parliamentarians invite them to appear. It is not surprising that citizens feel excluded from what some call "the people's house." Here it is not a question merely of correcting an imperfect perception of the public's role in parliamentary deliberations. One must ensure increased participation by citizens in the exercise of democracy by providing them, through new or improved procedures, the means to better interact with the National Assembly.

To this end it is proposed:

- That citizens be allowed to submit their own petitions to the National Assembly. All petitions would be received by a subcommittee, which would be empowered to rule upon the of each petition and to group together petitions on the same subject. The subcommittee could hear citizens so they might present in person the grievances they wished to have their elected representatives consider. The subcommittee would also ensure that the Government replied to any petitions received. Furthermore, petitions could be posted electronically in order to obtain the support of other citizens.
- That the participation of citizens be facilitated through amendments to the Rules for the Conduct of Proceedings. Thus, committees ought to travel more often to hear citizens in their own communities, and they ought to make a more sustained use of new technologies, such as videoconferencing and the Internet, to facilitate the participation of citizens in public consultations. Moreover, citizens should be allowed to intervene before parliamentary committees without being formally obliged to present briefs. A period of time would be made available during committee meetings to allow citizens who had previously registered for this purpose to make known their points of view on the matter under consideration. These interventions could also take the form of town hall meetings, which favour freer exchanges between citizens and their elected representatives.

ON THE ENHANCEMENT OF THE ROLE PLAYED BY THE MEMBERS

Members are too often perceived as actors whose individual influence is considerably diminished by party discipline and by the minor role played by those who do not occupy decision-making ministerial or parliamentary positions. It must be acknowledged that this perception is not completely unfounded. Measures must therefore be envisaged to restore a more significant role to individual Members. Indeed, this situation is attributable in part to the relatively little personal initiative that Members may exercise, whether they belong to the governing party or to the Opposition, in particular with regard to when they may intervene or introduce legislation. Likewise, certain practices that are of doubtful utility and are the residue of traditions that seem difficult to justify today contribute to this negative perception of the role of Members.

To this end it is proposed:

- That a period for Statements by Members be introduced at each daily sitting of the Assembly. Each statement of up to one minute would allow a Member to comment briefly on a subject of his or her choice. The period set aside for this purpose would last for fifteen minutes and would precede Oral Question Period. For initiatives of this kind Statements by Members would serve to replace the current recourse to motions without notice, which, because they are so numerous and take up so much time, delay the Assembly's proceedings.
- That a period devoted to the Private Members' Business be created. During this daily one-hour period, private Members could debate motions or bills on subjects of their choosing. It would be the responsibility of the President of the Assembly to select the matters to be debated

and to determine the order in which they were to be taken up according to a procedure yet to be agreed upon.

- That amendments to private Members' motions and bills be disallowed and that the adjournment of the debate on such matters be permitted only with the author's consent.
- That in order to select the officers appointed by the National Assembly Members be called upon to submit to the Premier, after deliberations *in camera*, a list of candidates deemed qualified to hold each position to be filled. It would then be up to the Premier to recommend to parliamentarians his or her chosen candidate from this list. Members would be invited to agree upon a procedure that would either be incorporated in the *Act respecting the National Assembly* or be established in a separate act.
- That party discipline be relaxed by introducing a procedure for the voting of bills comprising three categories, like that in effect at Westminster and at other Parliaments based on the British model. Thus, the Government House Leader would indicate to his caucus when any bill was introduced whether the Members from the governing party could vote freely, whether cabinet ministers and their parliamentary assistants were required to observe ministerial solidarity, or, finally, whether all Members from the governing party were required to vote for an agreed-upon position.
- That Members be called upon to adopt a code of ethics and to create a position of Ethics Commissioner whose incumbent would report to the National Assembly and would be appointed by two thirds of its Members.

ON THE MODERNIZATION OF THE NATIONAL ASSEMBLY

Outside observers and the general public have severely criticized a number of aspects of the way the National Assembly operates. For example, it is difficult to explain why the Assembly meets neither before mid-March nor before mid-October, after its adjournment in June, yet rapidly pushes through the passage of bills in June and December while working to an intensive timetable that is hardly conducive to rigorous work. Some have pointed out that the most serious parliamentary business is done in committees but that a variety of constraints, particularly with respect to orders of initiative, the resources available to committees, and the times when they are authorized to meet, do not allow the most efficacious possible use of this focal point in the parliamentary proceedings. Nor is oral question period, the most visible item of parliamentary business, spared from criticism either. Some go so far as to state that, far from having increased the public's knowledge of the Assembly, the televising of the debates has revealed an undisciplined side of the Members that ultimately tarnishes their image. Finally, the sequence of the Assembly's Routine Proceedings causes quite frequent delays that subsequently prevent parliamentary committees from commencing their own deliberations at the appointed time. The result is not only that time is lost for the execution of the orders they receive from the Assembly but also that hearings of groups or individuals must often be postponed or cancelled, thereby perpetuating the general impression that the Government and the Members are barely capable of organizing their work in an efficient and efficacious manner. As well, the rules governing the recognition of parliamentary groups must be reviewed, in particular with respect to eventual changes in the electoral system, so as to ensure a more faithful representation of the voters' intentions. In other words, changes are needed to genuinely correct the most ineffective aspects of the organization of the National Assembly's proceedings.

To this end it is proposed:

- That the parliamentary calendar be modified so that the Assembly sits from mid-February until mid-June and from mid-September until mid-December. The extended hours of meeting in effect during certain periods would be abolished.
- That the period for Oral Questions and Answers be modified so as to begin at a fixed time and that the sequence of the other items of the Routine Proceedings be reviewed. Some of these, such as Tabling Petitions, would be abolished. The same would apply to Notices of Proceedings in Committees, which would no longer be read in the House but rather tabled by the Government House Leader.
- That the criteria for the recognition of parliamentary groups be revisited. Currently, to be recognized as a parliamentary group, a given political party must have either elected 12 Members to the Assembly or received 20% of the popular vote. These requirements seem much too strict, particularly in comparison with those of other Parliaments. Furthermore, this rule applies only to Members returned in a general election and does not take into account the possible evolution of a party's representation throughout a Legislature. The number of elected Members required for recognition as a parliamentary group would be reduced to six and the percentage of the popular vote received would be set at 15%.

- That the procedure for Oral Questions and Answers be modified to reduce the possibility for overly partisan exchanges and the abuse of procedure. Thus, the length of both questions and answers would be set at 35 seconds, except that of questions by the Leader of the Official Opposition and answers from the Premier, both of which would be 55 seconds. Points of order would no longer be allowed.
- That the quorum be lowered to give the Assembly and its committees greater flexibility in their operations.
- That the rules of debate be reviewed to make debates livelier; and that, for this purpose, Members be permitted during any debate to ask a brief question of a colleague who has just finished speaking and to obtain a brief reply.
- That the process by which Members vote be reviewed to facilitate this process and, for this purpose, that electronic voting be introduced, except when the Assembly decides to proceed by recorded division.
- That the terms of reference of the various parliamentary committees be reviewed so as to ensure a more balanced and efficient distribution of the committee workload.
- That the practice of not considering the estimates of expenditure of the National Assembly, which has become entrenched over the years, be terminated.

ON THE REDEFINITION OF THE RELATIONSHIP BETWEEN THE EXECUTIVE AND THE LEGISLATURE

In principle the Members, as legislators, pass laws that are then enforced by the Government and the Administration. In principle, as well, the Government is answerable before the National Assembly and, to carry out its duties, must enjoy the confidence of a majority of the elected representatives. And finally, in principle it is the Members who vote the appropriations granted to the Government, approve the budget submitted by the Minister of Finance, and ensure the proper use of public funds. In practice, however, things work very differently. Regardless of the political party in power, the Government exerts such a firm control over the parliamentary proceedings that some find it unacceptable and believe it contributes to lowering the esteem in which the institution of Parliament is held. Thus, the Government decides which bills will be considered and passed; when necessary, it can suspend the application of rules so as to force the passage of bills even if Members have not considered them adequately. The information the Government provides when bills are introduced and during their subsequent consideration is minimal for both parliamentarians and the public. The Legislature's surveillance over Government spending and priorities is deficient. The Committee on Public Administration is falling ever farther behind in its examination of the financial commitments. The examination of the estimates by the other committees is performed in a context in which they are overloaded with information at the last minute, a situation that handicaps the work of the ministries and other agencies without giving Members the time they need to thoroughly analyse all this documentation and to put it to good use during debates in committee.

In December 2003, in its eleventh report on the accountability of deputy ministers and the chief executive officers of public agencies, the Committee on Public Administration admitted that the obligation to hear the deputy ministers and the chief executive officers of public agencies each year concerning their strategic plans, their statements of service to the public, and their annual management reports was unrealistic, given the number of bodies involved (approximately 75) and past experience in accountability reporting. In fact, since its creation the Committee has had to concentrate its efforts on those ministries and agencies on which the Auditor General had made observations in his or her report on auditing activities. It was only in the fall of 2003 that the Committee finished "its old work" and finally embarked on the mission conferred exclusively upon it by the *Public Administration Act*. In this eleventh report the Committee on Public Administration recalls a proposal advanced in October 2001 by a working committee that had been set up by the Committee on the National Assembly; according to this committee the obligation to hear the deputy ministers and the chief executive officers "each year" ought to be reduced to "once every four years."

Although provision is already made for the consideration of draft regulations and regulations in parliamentary committees, parliamentarians never exercise this prerogative owing to a lack of time.

In summary, achieving a balanced relationship between the Legislature and the Executive is never simple in a parliamentary system based on the Westminster model. Here, however, this relationship tilts in favour of the Government, which, on the strength of its parliamentary majority, sets the tone in all critical aspects of parliamentary life. This relationship must be redefined in order to restore the roles of elected representatives as legislators and as controllers of Government activity.

To this end it is proposed:

- That the mechanisms by which the Assembly expresses its confidence in the Government be reviewed. Thus, parliamentarians would be called upon to vote on the general policies of the Government as set forth in the opening speech, just as they do after the budget is presented. It will also be necessary to clarify the consequences of carrying a want of confidence motion or of refusing to pass a bill. After a want of confidence motion has been carried or a bill introduced by the Government has been negatived, a motion of confidence would automatically be placed on the Order Paper for debate. The results of the vote on the motion of confidence would make clear to everyone that, even though the Members may have rejected a particular measure proposed by the Government, they have done so without wishing to withdraw their confidence in it.
- That bills, when introduced, be accompanied by explanatory documents, specifically regarding the Government's orientations and the practical and budgetary implications of the bills in question. Based on a procedure in effect at the Scottish Parliament, this approach would change the way memoranda, especially that part of them which is public, are prepared for submission to Cabinet, thus avoiding duplication. Moreover, it would necessitate more sustained support from parliamentarians at the Assembly when private Members introduce bills.
- That it should become the general practice to allow a bill introduced during one sessional period to be passed only during the following sessional period. The closure motion, which makes it possible to recall to the Assembly a bill whose consideration is being obstructed during clause-by-clause consideration in committee, would be simplified. In return, the Government would be allowed to resort to the suspension of certain rules to hasten the passage of no more than one bill at a time.
- That the participation of ministers in committee proceedings be revisited. Although ministers would not be members of committees or have the right to vote, they would be able to take part in committee deliberations and move motions.
- That the organization of the process governing accountability reporting and the control of Government spending and budgetary orientations be reviewed to ensure more cohesion in the parliamentary deliberations. In particular, the apportionment of the various responsibilities of parliamentarians in these matters should be re-examined from the point of view of the resources they have to carry out their work and the time that will actually be devoted to these duties. As well, both the time necessary for the examination of important draft regulations and the role of interpellations must be provided for so as to ensure a more rigorous control of Government activities. Furthermore, prebudgetary consultations should take place in a parliamentary committee.

PROCESS LEADING TO THE ADOPTION OF THE PARLIAMENTARY REFORM

The body of proposals advanced here, as well as other, more technical ones concerning the operation of the National Assembly that are to be found in the present document, constitute the point of departure for a discussion among parliamentarians that will allow them to bring about substantial parliamentary reform.

The Government can launch the process of parliamentary reform, but it cannot determine the outcome of this process as it alone wishes. Custom dictates that any changes in the way the National Assembly conducts its business be consented to by all its Members. That is why it is intended to submit the present document to the parliamentarians.

Above and beyond the proposals for parliamentary reform themselves the Members are invited to show initiative and to demonstrate their ability to effect significant changes destined to enhance the institution of Parliament in the eyes of the population they represent. It will be up to them to agree on how these proposals should be studied in order to attain this objective. It is desirable that these changes be tested and possibly even introduced progressively. It is not necessary to wait until everything has been agreed upon before beginning to make changes. If Members are agreeable, improvements can be made as the progress of our work permits.

That having being said, those persons who are interested in parliamentary reform should not hesitate to contact their local Member or the Government House Leader and Minister for the Reform of Democratic Institutions to ask questions, to make comments, and, if they feel it is appropriate, to suggest changes of their own.

Proposed the changes are considerable. They constitute a profound cultural change in the way the National Assembly operates, in the way the Members go about their work, in the way the Government and the Members relate to each other, and in the ties that bind the Members with the population. These changes will strongly influence the nature and the quality of the decisions that Members will make on behalf of Quebecers. Even beyond that, however, it is to be hoped that this exercise will heighten Parliament's awareness of the need to adapt itself continuously, without waiting for evidence of disillusionment or of a loss of trust on the part of the population, before deciding to act.

1. Citizens' Participation
IN PARLIAMENTARY LIFE

The parliamentary reform seeks, first of all, to increase the involvement of citizens in the exercise of democracy by providing them with the means to better interact with the National Assembly through new or improved procedures.

In particular, its objective is:

- To encourage citizens to exercise their right to petition by establishing a Subcommittee on Petitions and by creating a Web site in which petitions addressed to the Assembly can be posted and receive signatures in their support.
- To encourage more active participation by citizens in the proceedings of parliamentary committees by increasing:
  - the possibilities offered to citizens to be heard by committees;
  - the intellectual and technological resources available to committees.

1.1. EXERCISING THE RIGHT TO PETITION

The right to petition, which is recognized in the *Charter of Human Rights and Freedoms* (section 21), enjoys constitutional protection. Nonetheless, within the strict framework defined by the *Standing Orders of the National Assembly*, the exercise of that right is subject to limitations that the citizens of the twenty-first century have difficulty accepting.

Thus:

- the obligation to petition the Assembly "through one of its Members" (Standing Order [S.O.] 62) can represent an additional difficulty for petitioners;
- the fact that current parliamentary procedure does not require any follow-up (consideration by the Assembly or by a committee, or a reply from the Government) when a petition is presented deprives the right to petition of much of its interest.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P1 That a standing parliamentary Subcommittee on Petitions be established and that it be attached to the Committee on Relations with the Citizens.[2]

P2 That petitions from citizens be directly addressed to this Subcommittee.

P3 That it be permissible to transmit petitions both on paper and in electronic form.

P4 That the Web site of the National Assembly lodge, for a defined period, all petitions addressed to the Assembly; that citizens who so desire be allowed to support these petitions; that at the end of the period defined in the Standing Orders for their posting on line these petitions be referred to the Subcommittee on Petitions.

P5 That the Subcommittee have the power to:

- determine whether petitions are admissible;
- group together identical petitions or petitions having the same object;
- hear representatives of the petitioners.

P6 That the report of the Subcommittee on Petitions to the Committee on Relations With the Citizens consist of the minutes of its proceedings and exclude all other elements.

P7 That within 30 days after a report from the Committee on Relations with Citizens has been tabled in the Assembly the Government forward to the Subcommittee a written reply to the petitions discussed in this report.

P8 That should the Government fail to forward its reply to a petition within the prescribed time, this petition be placed on the Order Paper for the next sitting of the Assembly; and that, not later than at the second sitting after such petition has been placed on the Order Paper, the Government be obliged to reply to this petition orally at the moment set aside for that purpose during the Routine Proceedings of the Assembly.

2. See annex 5: Names and Terms of Reference of the Standing Committees.

1.2. CITIZENS' PARTICIPATION IN THE PROCEEDINGS OF PARLIAMENTARY COMMITTEES

Citizens have access to the National Assembly and its Members through parliamentary committees. Committees serve as a sort of bridge between the population and the elected representatives and allow both groups to meet between elections in a parliamentary setting.

However, this bridge, though well defined, remains narrow:

- Only those citizens who have been invited to testify during general or special consultations may cross it.
- Special consultations focus on experts or organizations that have a particular interest in the subject being examined by a committee. General consultations appeal to the public to submit briefs on the subject in question, then choose the persons and organizations the committee will meet from among the authors of these briefs. In both cases citizens who lack the necessary resources to draft and present a brief are, for all practical purposes, excluded from the consultation.
- Québec covers a vast territory. Not everyone can travel to its capital, especially at the time chosen by a committee to hold a consultation; many citizens lack the resources (time, money, etc.) necessary to participate.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P9 That when parliamentary committees hold general consultations, a period of time and a procedure be defined to allow for the hearing of citizens who are concerned by or interested in the subject of a general consultation but who have not submitted a brief or been invited to appear before the committee. That the following approaches be tested and given preference:

- Statements by the public: periods of fixed length during which citizens who have previously registered with or contacted the clerk of the committee can express their points of view and answer questions from the Members; these periods could take place at the end of each sitting or be grouped together at the end of the consultation process.
- Meetings with citizens: sittings during which citizens can discuss a particular subject with the members of a committee; these exchanges could take the form of:
  - brief statements from both parties;
  - questions and answers from both parties as well.

P10 That during consultations on issues of particular interest to the residents (individuals or organizations) of certain regions committees travel to these regions as necessary to gather the greatest possible amount of testimony and to encourage the expression of various points of view.

P11 That to reduce the costs relating to consultations, and when local technical facilities permit, committees use teleconferencing.

2. Enhancement OF MEMBERS' ROLE

Since at least the 1970s there has not been a single text on the "necessary parliamentary reform" that has failed to place the issue of enhancing the role played by Members at the very heart of such an endeavour.

From the outset, the idea of enhancing the role of Members stemmed from the realization that power was sliding inexorably and with increasing speed out of the hands of the Legislature and into those of the Executive. Limited in their role, the Members–particularly those within the governing parliamentary group–often said they felt demotivated. It was thus necessary, even urgent, to increase their opportunities to intervene and to involve them in the decision-making process.

It was in this spirit that, in 1982, changes were proposed to the *Act respecting the National Assembly* and to the *Standing Orders of the National Assembly*. These changes sought above all to grant parliamentary committees–the setting of choice for parliamentary activity by individual Members–real autonomy from the Assembly itself and, thus, from the governing parliamentary group.

It was not only in the minds of the Members themselves, however, that their role needed to be enhanced. It was important as well to correct the perception that the citizens had of their representatives, for the results of opinion polls on this issue were alarming.

Twenty years after the last parliamentary reform the thinking on this question has taken on new dimensions. Motivating the Members by involving them more closely in important debates and major decisions is, of course, still an issue. Improving their image in the media, among their electors, and in the general population is likewise still on the agenda. To these concerns, however, have been added others, which are contained in this proposal for parliamentary reform.

In concrete terms it is proposed:

- That an item be added to the Routine Proceedings entitled "Statements by Members."
- That an item be added to the Orders of the Day entitled "Private Members' Business" during which private Members can bring before the Assembly for debate and decision motions or public bills they have initiated.
- That the power to make decisions about the budget of expenditures of their institution be returned to Members.
- That Members be allowed to participate in the process for selecting the officers who are appointed by the Assembly.
- That party discipline be relaxed within the governing parliamentary group and that the holding of more free votes be encouraged.
- That a code of ethics for parliamentarians be adopted and that the position of Ethics Commissioner be created.
- That the participation of Members in permanent mechanisms for the modernization of their Assembly be institutionalized.

2.1. STATEMENTS BY MEMBERS

Standing Orders 53, 55, and 56 of the National Assembly allow ministers to make statements and set forth the applicable procedure. Nothing of the sort is envisaged for private Members.

One might argue that Members can take the floor during all the debates held in the Assembly, especially those on the opening speech of the session and on the budget speech, and that the remarks they make during these particular debates are not circumscribed by the rule of relevancy (S.O. 50 and 274); one might add that on Wednesdays Opposition Members have, in addition, the opportunity to hold debates on motions or bills (S.O. 97 to 99). In reply to these arguments one must note that at the end of these debates the Assembly is called upon to come to a decision–in other words to vote–and that whenever that occurs, Members are required either to abide by their party's opinion or to express their dissidence.

On the other hand, allowing statements to be made that are not debated or put to a vote makes it easier to express points of view, opinions, and even deeply held convictions.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P12 That an item be added to the Routine Proceedings of each sitting entitled "Statements by Members."

P13 That this item be open to all Members except the members of Cabinet and the President of the Assembly.

P14 That the period for "Statements by Members" take place immediately before "Oral Questions and Answers" and be limited to fifteen minutes.

P15 That each statement not exceed one minute in length.

P16 That Members be permitted to discuss any matter in their statements, subject to Standing Order 35.

P17 That any Member who wishes to make a statement so inform the President of the Assembly not later than at 5:00 p.m. on the preceding day.

P18 That the President of the Assembly determine the order in which Members are to make their statements, taking into account, in particular:

- the order in which they were submitted;
- the date of the event to which they refer, if applicable;
- the presence in the public gallery of visitors who have an interest in certain statements.

2.2. PRIVATE MEMBERS' BUSINESS

The procedure and practice of the Assembly are structured in such a way that private Members, whether they belong to the Opposition or to the governing parliamentary group, cannot bring motions or bills of their own before the Assembly for debate without having first obtained the endorsement of the Government House Leader: "Except as otherwise provided in Standing Order 97, items of business standing on the Order Paper shall be taken up at the discretion of the Government House Leader [S.O. 96]."

The item "Business Standing in the Name of Members in Opposition" (S.O. 97) is exempted from this constraint. However, this constraint is replaced by another since, in practice, it is the Official Opposition House leader who sends in the notices to be placed on the Order Paper for the business to be debated. One can only conclude that "Business Standing in the Name of Members in Opposition" constitutes, in reality, a means of expression for Opposition parties rather than for their individual Members.

That being so, private Members still lack a vehicle for disseminating their ideas, expressing their convictions, or defending causes that are dear to them and of which they may sometimes even be the champions outside the Assembly. That is all the more true for the Members in the governing parliamentary group, who do not even have available to them the possibility afforded by "Business Standing in the Name of Members in Opposition."

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:[3]

P19 That an item of the Orders of the Day be created entitled "Private Members' Business," during which the Assembly would debate the passage in principle of public bills introduced by private Members or motions placed on the Order Paper by private Members.[4]

P20 That all Members of the Assembly–except the members of Cabinet and the President of the Assembly–be permitted to move a motion or the passage of a public bill during "Private Members' Business."

P21 That the list of items of "Private Members' Business" to be debated and the order in which they are to be taken be determined by the President of the Assembly by ballot.

P22 That the motions and the public bills taken into consideration under "Private Members' Business" come under the authority of the National Assembly; that the President of the Assembly rule on their receivability.

P23 That a private Member be permitted to introduce and have debated a public bill containing provisions which entail the disbursement of public funds, provided that a minister obtain the recommendation of the Lieutenant-Governor before such bill is passed.

P24 That at each sitting of the Assembly a period of one hour be reserved during the Orders of the Day for "Private Members' Business."

P25 That when the Assembly decides to conduct a recorded division rather than an electronic vote[5] on an item of "Private Members' Business," this recorded division be conducted in the following sequence:

- the sponsor of the bill or motion;
- the Members in favour of the bill or motion, beginning with those who occupy the last row on the same side of the Assembly as the sponsor, followed by the Members in the last row on the opposing side of the Assembly, and so on until the first row of each side of the Assembly;
- the Members opposed to the bill or motion, in the same sequence;
- the Members abstaining, in the same sequence.

3. See annex 1: Private Members' Business. *Proposed Rules for the Conduct of Proceedings.*
4. See annex 4: Routine Proceedings and Orders of the Day.
5. See point 3.1.8.: Electronic Voting.

BIBLIOTHÈQUE
15 MAR. 2005
ASSEMBLÉE NATIONALE

2.3. AMENDMENTS TO ITEMS OF "OPPOSITION MEMBERS' BUSINESS" AND "PRIVATE MEMBERS' BUSINESS"

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P26 That no amendment moved to an item of "Opposition Members' Business"[6] or "Private Members' Business" be received for debate or put to a vote without the permission of the mover of the main motion.

2.4. ESTIMATES OF EXPENDITURE OF THE NATIONAL ASSEMBLY

During the past twenty-six years it can be seen that:

- for five years (from 1978-1979 to 1982-1983), on average, 71.96% of the appropriations for the National Assembly were concurred in by the Assembly (the others being considered permanent appropriations);
- for the next five years (from 1983-1984 to 1987-1988), on average, only 19.8% of these appropriations were concurred in by the Assembly;
- during the past sixteen years (from 1988-1989 to 2003-2004) all the appropriations for the National Assembly were considered permanent appropriations and were thus exempted from the Assembly's approval.[7]

What is more, in derogation from the obligation set forth in the *Standing Orders* (S.O. 286) that all the estimates of the Assembly must be referred to the Committee of the Whole for its consideration, not one sitting of this committee has been devoted to considering the estimates of expenditure of the National Assembly during the past seven years (from 1997 to 2003).

It is therefore no exaggeration to state that the National Assembly ceased long ago to set an example for transparency by failing to offer its members the opportunity to take a formal position on the budget of expenditures of their own institution.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P27 That the estimates of the National Assembly again become "appropriations to be voted" –except those of program 3: "Statutory Support Services for Parliamentarians"–and that, like the main budgetary estimates tabled in the Assembly, they be considered and concurred in by the Assembly, pursuant to the provisions of the *Standing Orders*.

P28 That the third paragraph of section 125 of the Act respecting the National Assembly be amended by inserting, after the word "Office", the words "and concurred in by the Assembly."

This third paragraph, as amended, would read:

"Furthermore, the budget estimates and, as the case may be, the supplementary budget estimates must be approved by the Office and concurred in by the Assembly."

2.5. CODE OF ETHICS AND ETHICS COMMISSIONER

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P29 That the Members adopt a Code of Ethics and create a position of Ethics Commissioner whose incumbent would report to the National Assembly and would be appointed by two thirds of its Members.

2.6. SELECTION OF OFFICERS APPOINTED BY THE NATIONAL ASSEMBLY

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P30 That any person appointed to public office by the National Assembly be declared qualified for such office by a standing or select committee of the National Assembly before such appointment is made.

The persons appointed by the National Assembly are:

- the Auditor General;
- the Public Protector;
- the Lobbyists Commissioner;

6. Term proposed to replace the item entitled "Business Standing in the Name of Members in Opposition."
7. See annex 2: Appropriations "To Be Voted" by the National Assembly.

- the Director General of Elections and the members of the Commission de la représentation électorale (commission on electoral representation);
- the members of the Commission d'accès à l'information (access to information commission);
- the members of the Commission des droits de la personne et des droits de la jeunesse (youth and human rights commission);
- the members and substitute commissioners of the Commission de la fonction publique (public service commission);
- the Jurisconsult of the Assembly;
- the Secretary General and the Associate Secretaries General of the Assembly.

The Ethics Commissioner would be added to this list.

P31 That the list of the names of the persons declared qualified be forwarded to the Premier.

P32 That the Premier propose to the National Assembly the candidacy of the person he or she has chosen for the office to be filled after having consulted the Leader of the Official Opposition and the leaders of the other parties represented in the Assembly.

2.7. PARTY DISCIPLINE AND FREE VOTES

Generally speaking, citizens call for closer ties between themselves and their Member; they expect their Member to represent them within the party, in the National Assembly, and with the Government more than the reverse. They demand that within these bodies their Member act as their spokesperson, even as the defender of their concerns and the promoter of their wishes. This demand is sometimes accompanied by a vague desire to control the Member's actions, interventions, and positions (particularly his or her votes in the Assembly); some want to make their Member accountable to his or her "constituents" not only at election time but throughout his or her term of office. The path from such accountability to demands for a recall process[8] is short, and some would like to travel it, but we are in no way considering such an option. Indeed, given the appeal that the recall procedures in effect in British Columbia and California hold for certain critics of the current parliamentary system, it seems urgent to reaffirm the principle of the independence of Members, lest the wish to free them from party discipline should instead leave them subject all the more to the influence of local interest groups.

The principle of the independence of Members is already embodied in section 43 of the *Act respecting the National Assembly*: "Every Member is vested with full independence for the carrying out of his duties."[9]

That being so, the phenomenon of "party discipline" reveals itself in a number of circumstances and expresses itself in a variety of ways. It is most clearly visible, however, when votes are taken in the Assembly.

Considered in the light of parliamentary procedure, every vote cast in the National Assembly is, in principle, free . . . and if ever that were not the case, any Member who was prevented from voting as he chose could invoke the fact that his or her rights and privileges and those of the Assembly had been breached. According to section 55 of the *Act respecting the National Assembly*, "[...] The following acts, in particular, constitute breaches of the privileges of the Assembly: [...] attempting to influence the vote, opinion, judgment or action of a Member by means of deceit, threats or undue pressure [...]."

Despite the institutional protection that Members enjoy, it is quite understandable that in certain circumstances they can be torn between, on the one hand, their party's program, policy, or position on a given issue and, on the other hand, the commitments they have made to their electors or the latter's pressing and repeated entreaties (even demands), not to say the Members' own conception of the public interest or, simply, their conscience.

In a good many situations the dilemma is insolvable; Members must opt for one path or another, mindful that Parliament affords them four ways of taking a position on a question: three official ways (vote in favour, vote against, or abstain) and one dodge (absent oneself). Over and above this last option Members can nonetheless experience genuine frustration at both the personal and the political levels (in their relations with their constituents or with their party).

Without denying the need for "party discipline" it would thus be appropriate to relax it in order to allow Members to carry out their duties while also taking into account:

- the expectations either of the voters in their electoral division or of all citizens;
- their personal convictions or conclusions about an issue;
- the dictates of their conscience.

8. *Recall process*: behind the "reversal" of Governor Gray Davis in California in 2003.

9. By way of comparison, Article 38 [Elections], (1) of the *Basic Law for the Federal Republic of Germany* reads as follows.
"Members of the German Bundestag shall be elected in general, direct, free, equal, and secret elections.
They shall be representatives of the whole people, not bound by orders or instructions, and responsible only to their conscience."

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P33 That within the governing parliamentary group a distinction be made among:

- matters that involve the responsibility of the Government and that consequently require the confidence of a majority of the Members of the Assembly;
- matters that, while they do not involve the responsibility of the Government, nonetheless constitute important elements of its policy;
- matters that do not threaten the coherence of Government policy or actions and thus lend themselves to the expression of personal positions.

P34 That the Government House Leader, in consultation with the Government whip, classify votes by members of the governing parliamentary group according to the following categories:[10]

- First category: all Members of the majority are required to support the Government.
- Second category: ministers and their parliamentary assistants must show solidarity with the Government; other Members may vote freely.
- Third category: all Members, including parliamentary assistants and ministers, may state their position on the basis of their electors' expectations or their personal convictions.

P35 That by its attitude and its example the governing parliamentary group instill a dynamic in the National Assembly with which the Opposition parties would be invited to associate themselves.

2.8. FOLLOW-UP TO THE PARLIAMENTARY REFORM BY THE MEMBERS

The *Act respecting the National Assembly* as well as the *Standing Orders of the National Assembly* and the *Rules for the Conduct of Proceedings*, which complement it, are the fruit of the parliamentary reform of 1982-1984.

In order to ensure that the process of reform would not come to an end with the adoption of the *Standing Orders* in March 1984, the Assembly established not only a standing committee (the Committee on the National Assembly), which was mandated to draft the Standing Orders and the Rules for the Conduct of Proceedings of the National Assembly and its committees, but also a standing subcommittee (the Subcommittee on Parliamentary Reform), to which it entrusted "the power to examine matters relating to parliamentary reform [S.O. 117]." This approach has not, however, yielded the expected results.

The Committee on the National Assembly has seldom met, and when it has, it was mostly to discuss matters other than parliamentary reform. As for the Subcommittee on Parliamentary Reform, it has held almost no meetings.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P36 That on the second Tuesday in October of each year the Assembly devote the Orders of the Day to a debate on its organization, its operation, its rules of procedure, and its practices.

P37 That the chair of the Committee on the National Assembly table in due course–that is to say approximately one month before this debate is to be held–a report on any proposals for reform that may have been made to the Committee as well as a reference document containing any comments on and studies of the subject that may have been done since the previous debate.

10. This measure is based on a practice in use in Westminster:

> [...] The term 'whip' also applies to the weekly circular sent out by each Chief Whip to all their MPs or peers notifying them of parliamentary business. The degree of importance is indicated by the number of times that the debate or division is underlined:
> - items underlined once are considered routine and attendance is optional
> - those underlined twice are more important and attendance is required unless - in the Commons - a 'pair' (a member of the Opposition who also intends to be absent from the division) has been arranged
> - items underlined three times are highly important and pairing is not normally allowed.
>
> 'Three-line whips' are imposed on important occasions, such as second readings of significant Bills and motions of no confidence. Failure by MPs to attend a vote with a three-line whip is usually seen as a rebellion against the party and may eventually result in disciplinary action, such as suspension from the parliamentary party.
>
> http://www.parliament.uk/works/pagovopp.cfm#whips

3. Modernization of the National Assembly's ORGANIZATION AND PROCEEDINGS

With regard to the modernization of the National Assembly and its committees the reform proposes, among other innovations:

- That the quorum of the Assembly be reduced to enable Members to participate more easily in committee meetings.
- That the number of Members required for a party to form a parliamentary group be reduced by half and the proportion of the popular vote received by a party during a general election for it to form a parliamentary group be lowered to 15%.
- That the parliamentary calendar be modified to increase and to better distribute throughout the year the control of the Executive and the various facets of the Members' workload.
- That a set time be established for the beginning of Oral Questions and Answers, in particular to make it easier for the media and interested citizens to observe it.
- That the length of both oral questions and the answers given to them be limited to allow their number to be increased.
- That the organization of the debates be reviewed to foster interaction among those who have the floor and the other Members present.
- That electronic voting be introduced.
- That a procedure be established for appointing the Secretary General and the Associate Secretaries General of the National Assembly and that the length of their term of office be fixed.
- That the workload of the various committees be readjusted and, to this end, that their respective fields of competence be reorganized.
- That the Committee on the National Assembly, its membership, and its chairship be restructured and that a Coordinating Committee for Committees be established.
- That the number of committees authorized to meet simultaneously be increased.
- That the membership, the chairship, and certain powers of the Office of the National Assembly be modified.

3.1. THE ASSEMBLY

3.1.1. Quorum of the Assembly and of the Committee of the Whole

At the National Assembly a distinction is made between:

- the "large quorum," which applies when no committees are meeting at the same time as the Assembly or the Committee of the Whole; it equals one sixth of the Members of the Assembly (21/125);
- the "small quorum," that is to say the quorum required when some committee is meeting at the same time as the Assembly or the Committee of the Whole;

Increasing the number of committees authorized to meet simultaneously, including when the Assembly itself is sitting, as is proposed below,[11] may well reduce the number of Members available to take part in these committee meetings as well as in the proceedings of the Assembly.

That is why it seems advisable in the wake of the change introduced in 1982 (the creation of the "small quorum") to reduce the quorum of the Assembly further by setting it at one fifteenth of its Members, that is to say nine Members, including the President.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P38 That the quorum of the Assembly and of its Committee of the Whole be fixed at one fifteenth of its members: nine Members, including the President.

3.1.2. Parliamentary Groups

Standing Order 13 of the National Assembly defines a "parliamentary group" as follows: "Any group of not fewer than twelve Members returned to the Assembly by the same political party, or any group of Members returned by a political party that shall have received not less than twenty percent of the popular vote in the most recent general election, shall form a parliamentary group [...]."

"[...] Members who do not belong to any parliamentary group [...] shall sit as independent Members."

11. See point 3.2.3.: Number of Committees Authorized to Meet Simultaneously.

These provisions pose four problems:

- Whereas a party need have only one Member to be represented in the Office of the National Assembly,[12] this same party must have at least 12 Members in the Assembly itself to be recognized as a parliamentary group.
- These 12 Members must have been elected for the same party at the time of the most recent general election. That prohibits any adjustments to account for changes in a party's representation in the Assembly during the course of a Legislature.
- Hypothetically, a party could present 20 candidates in a general election–a condition for achieving the status of "authorized party"[13]–and elect eleven Members, yet it would still be unable to form a parliamentary group in the Assembly without having received 20% of the popular vote. Despite its extreme character, this hypothesis illustrates the distortion that the parliamentary rules can sometimes introduce into the interpretation of the will of the people.
- Finally, the rule under which "Members who do not belong to any parliamentary group [...] shall sit as independent Members" creates an awkward confusion between Members who were elected as independents and those who represent a party that elected fewer than 12 Members.

The proposed new rules:

- reduce by half the number of Members required for a political party to be recognized as a parliamentary group in the Assembly;
- eliminate the requirement for these Members to have been elected in a general election;
- reduce to "15% of the popular vote in the most recent general election" the current alternative requirement for constituting a parliamentary group;
- stipulate that the Members sitting for a party that does not form a parliamentary group be designated as members of that party and no longer as independent Members.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P39 That recognition as a parliamentary group be accorded to:

- any group of not fewer than six Members returned to the National Assembly by the same political party;
- or any group of Members returned to the National Assembly by a political party that has received not less than 15% of the popular vote in the most recent general election.

P40 That it be permitted to constitute a parliamentary group at any time during the course of a Legislature.

P41 That the Members returned by a party be designated as members of this party even if it does not form a parliamentary group.

P42 That the expression "Members who do not belong to any parliamentary group" designate both:

- Members elected or sitting as independent Members;
- Members who belong to a political party that does not form a parliamentary group.

3.1.3. Parliamentary Calendar

According to the *Standing Orders of the National Assembly* (S.O. 19):

"During a Legislature the Assembly shall ordinarily meet:

- from the second Tuesday in March until not later than the twenty-third day of June;
- from the third Tuesday in October until not later than the twenty-first day of December."

What surprises many observers of parliamentary life–amateurs and professionals alike–is the way this calendar is organized. Why start the year only in March? Why, after the summer adjournment, does the Assembly not resume sitting until nearly the end of October? Moreover, it is difficult to understand why, after having waited so long to reconvene, the Members should need periods in which they meet intensively during extended hours ("from the twenty-fifth day of May until the twenty-third day of June and from the twenty-fifth day of November until the twenty-first day of December," S.O. 21) to finish their work and why

12. Second subparagraph of section 88 of the *Act respecting the National Assembly*.
13. Section 47 of the *Electoral Act*. It is worth noting, however, that the Supreme Court (Figueroa judgment, June 23, 2003) declared such requirements unconstitutional, because they contravene section 3 of the *Canadian Charter of Rights and Freedoms*.

these periods occur so close to December 25 and to June 24. Finally, one notes that during many months of the year, that is to say in January, February, July, August, and September, the Government does not have to answer to the Assembly for its orientations or its actions.

Of course, some of these assessments ought to be qualified, since committees meet even when the Assembly itself is not in session (S.O. 145).

Nonetheless, it would seem opportune for the Assembly to spread its activities more evenly throughout the year so that:

- its legislative business could be conducted less and less in a climate of haste;
- its surveillance of the Executive could be more regular and less concentrated in time.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:[14]

P43 That the Assembly ordinarily meet on Tuesdays, Wednesdays, and Thursdays:

- from the second Tuesday in February until the second Thursday in June;
- from the second Tuesday in September until the second Thursday in December.

P44 That the Assembly also be authorized to decide to meet on Mondays and Fridays.

P45 That the Assembly and its committees suspend their proceedings during two weeks, as follows:

- during the tenth of the 18 weeks in the spring sessional period (approximately the week of the second Tuesday in April);
- during the seventh of the 13 weeks in the fall sessional period (approximately the week of the fourth Tuesday in October).

P46 That the periods in which the Assembly observes extended hours of meeting be abolished.

3.1.4. Hours of Meeting of the Assembly

According to the current Standing Orders:

- "The Assembly shall meet at 10.00 o'clock a.m. each day from Tuesday to Thursday and may continue to meet until 6.00 o'clock p.m., the proceedings being suspended from 12.00 o'clock noon until 2.00 o'clock p.m. [...] [S.O. 20]";
- "The Routine Proceedings shall be taken at 2.00 o'clock p.m.: Provided that during any period in which the Assembly shall have extended hours of meeting the Routine Proceedings shall be taken at 10.00 o'clock a.m. [S.O. 52]";
- "When the Assembly is in session, no committee that is to meet at the Parliament Building shall do so during the Routine Proceedings [...] [S.O. 145]."

The item of Routine Proceedings that is best known and most closely followed by the media–and also by the television audience–is without any doubt Oral Questions and Answers. However, this item of Assembly business may occur either in the afternoon or in the morning, in accordance with the date on which the sitting in question is held.

This situation is inconvenient for those interested in attending "question period" or in watching it on television. Still more inconvenient is the situation that professional observers–journalists, analysts, etc.–and participants in this key element of parliamentary control–ministers and Members-experience every day, because "question period" never starts at exactly the same time either in the morning or in the afternoon. Indeed, Oral Questions and Answers is the fifth item of the Routine Proceedings (S.O. 53) and, as such, is at the mercy of the time needed to deal with the preceding four items.

Finally, since committees are not authorized to meet during the Routine Proceedings, those persons who have been invited to testify before committees are too often obliged to wait a very long time before they can be heard.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:[15]

P47 That the meetings of the Assembly begin at 9:30 a.m. with the Orders of the Day; that these Orders be taken in the sequence set forth in Standing Order 54.

P48 That at 10:45 a.m. the business under way be deemed adjourned and that the Assembly begin the Routine Proceedings with "Statements by Members" for up to 15 minutes.

P49 That "Oral Questions and Answers" begin at 11:00 a.m. and, as at present, last for 45 minutes.

14. See annex 3: Parliamentary Calendar and Hours of Meeting.
15. See annex 4: Routine Proceedings and Orders of the Day.

P50 That the Assembly then proceed to the other items of the Routine Proceedings in the following sequence:

- Statements by Ministers;
- Introduction of Bills;
- Presenting:
  - Answers to Petitions,
  - Papers,
  - Reports from Committees,
  - Notices of Proceedings in Committees by the Government House Leader and the President;
- Information on the Proceedings of the Assembly;
- Motions without Notice (see below the proposed new Standing Order 84);
- Deferred Divisions;
- Oral Answers to Petitions;
- Complaints of Breach of Privilege or Contempt and Personal Explanations.

P51 That the following be abolished:

- Presenting Petitions;[16]
- Motions without Notice as provided in the second and third paragraphs of the current Standing Order 84;
- Debates on Reports from Committees containing recommendations.[17]

P52 That Standing Order 84 be replaced by the following:

"The motions that may be moved without notice as prescribed by statute[18] or by these Standing Orders may be moved and carried during the present stage of the Routine Proceedings or at any time during the Orders of the Day."

P53 That the Notices of Proceedings in Committees be tabled by the Government House Leader at the moment set aside for this purpose during the Routine Proceedings and that he be thereafter allowed to complete or modify them at any time during the sitting.

P54 That when the Assembly is sitting, the Government House Leader forward the Notices of Proceedings in Committees to the House leaders of the other parliamentary groups and to the President not later than at 11:00 a.m.

P55 That committees be allowed to meet after Deferred Divisions.

P56 That upon the conclusion of the Routine Proceedings the Assembly resume the Orders of the Day until 6:00 p.m.

P57 That at 12:30 p.m. the proceedings of the Assembly be suspended until 2:00 p.m.

P58 That at 5:00 p.m. the business under consideration be deemed adjourned and the Assembly proceed with "Private Members' Business" for one hour.

P59 That at 6:00 p.m. the Assembly either adjourn or proceed with debates upon adjournment, as the case may be.

P60 That it be permitted to prolong a sitting to allow the budget speech or a supplementary statement on the budget to be read.

3.1.5. Oral Questions and Answers

According to the current Standing Orders:

- "An oral question shall be concisely put. A brief preamble may be allowed in order to place a question in its context. [S.O. 76]";
- "[...] They [supplementary questions] must be brief and precise, [and] be stated without preamble [...] [S.O. 78]";
- "The answer to an oral question must be concise [...] [S.O. 79]."

This requirement of concision has two goals:

- To allow time for as many questions and answers as possible.
- To create the conditions needed so that certain other rules concerning Oral Questions and Answers may be respected, namely:
  - "A question should not offer any argument or express any opinion, be founded upon a supposition, [. . .] suggest its own answer, be so framed as to provoke debate. [S.O. 77]";
  - "[...] They [supplementary questions] [...] must arise out of the main question and the Government's answers [...] [S.O. 78]";
  - "The answer to an oral question must be [...] confined to the subject matter of the question, and neither offer any argument nor express any opinion; nor shall it be so framed as to provoke debate [S.O. 79]."

16. See point 1.1.: Exercising the Right to Petition.
17. See point 4.4.2.: Interpellations.
18. Thus, even the motions envisaged in original acts for the appointment of office-holders or for the fixing of the salaries of persons occupying or appointed to occupy certain offices should be preceded by a notice on the Order Paper unless the act designates them as "motions without notice."

Several years ago time limits were established for the various types of questions and answers. On October 30, 2003, the President of the Assembly reminded Members of these limits:

> *Generally speaking, the Chair will grant 1 min 30 s for main questions put by the Leader of the Official Opposition. Main questions put by other parliamentarians should not exceed one minute. The length of the Premier's answers to main questions will be 1 min 45 s; those of other ministers should not exceed 1 min 15 s. The time allotted for supplementary questions will be 30 seconds, and that allotted for ministers' answers to supplementary questions will be 45 seconds. Naturally, the Chair can allow greater latitude with regard to exchanges between the Premier and the Leader of the Official Opposition, in keeping with tradition.*

Nonetheless, the President must constantly remind Members and ministers of their obligation to be brief. The reason is that the authorized time limits are long. Consequently, despite the prohibitions in the *Standing Orders* Members still find time when stating their questions or preambles to express opinions, to slip in arguments and suppositions, or to suggest their own answers, with the inevitable result that they provoke debate; the same can be said of ministers and their answers.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P61 That during Oral Questions and Answers the time for each intervention (question or answer) be limited to 35 seconds.[19]

P62 That, notwithstanding the foregoing, the Leader of the Official Opposition and the Premier, respectively, have 55 seconds for their questions and answers.

P63 That the distinction between main questions and supplementary questions be abolished.

P64 That at the beginning of each Legislature and, when necessary, during a Legislature the President, after having consulted the House leaders, determine the sequence in which Members are to question the Government, taking into account the number of parliamentary groups, the numerical importance of each group, and the presence of Members who belong to no parliamentary group.

P65 That points of order respecting the conduct of question period be raised after Deferred Divisions.

3.1.6. Questions Regarding Speeches

Criticisms of the way debates in the National Assembly are now conducted do not limit themselves to the length of the speeches and to the repetitiveness to which they give rise. They also focus on their linear character and on the lack of interaction among participants. The rule of "alternation" (one Member from the majority/one Member from the Opposition) does not suffice to keep the debates lively, because a Member who wishes to react to another's speech must await his or her turn, sometimes at a later sitting, to expound a viewpoint contrary to one previously expressed.

Of course, "any Member may, immediately after another Member has finished speaking and with his consent, ask him a question. Both the question and the answer shall be concisely put [S.O. 213]." However, not only is this possibility rarely used, but the Member of whom the question is asked is perfectly at liberty to refuse to answer it.

That is why it seems desirable to shield the Members' opportunity to participate in a debate from the good will of a colleague who has just finished speaking by establishing a procedure that recognizes their right to ask that colleague a question.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P66 That during any debate a Member who does not belong to the same parliamentary group–or to the same party–as another Member who has given a speech be permitted to ask the latter a question immediately after he or she has finished speaking.

P67 That this question and the answer thereto be concise.

19. In 1997, at the House of Commons, the length of questions and answers was reduced to 35 seconds to allow a greater number of questions to be asked. Since then between 38 and 45 questions are asked each day, whereas between 22 and 24 questions had been asked each day during the thirty-fifth Legislature (1994-1997).

3.1.7. Adjournment of the Debate

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P68 That only the sponsor of a bill or a motion, or the sponsor's representative, be permitted to move the adjournment of the debate on this bill or motion.

3.1.8. Electronic Voting

Voting by recorded division, as is the practice at the Assembly, has its supporters and its critics.

On the one hand:

- the transparency of this procedure reinforces the accountability of Members to citizens;
- it enhances the role of the Members, whose electors can see them in action;
- finally, from a practical point of view it facilitates the work of the House leaders and the whips.

On the other hand:

- recorded divisions prevent Members from freely and spontaneously expressing their positions on certain issues owing to "peer pressure" from their group from which they cannot easily escape;
- even without the current procedure for recorded divisions the position adopted by each Member at the conclusion of a "recorded vote" held by some other method would remain available to citizens as soon as it was published in the Votes and Proceedings.

The introduction of electronic voting, which the following proposals recommend, has precisely the advantage of combining the benefits of both a vote that is-temporarily-secret (less immediate pressure on individual Members from those around them) and a recorded division (disclosure of the position taken by each Member). What is more, the electronic publication of the detailed result of a vote held at the Assembly would be more efficient in conveying this information to the media and to citizens. Finally, abandoning or decreasing the recourse to the ritual of the recorded division would lead to a considerable saving in time and lend the Assembly a decidedly more modern image.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P69 That electronic voting replace voting by recorded division, except when the Assembly decides otherwise.

P70 That insofar as is possible the detailed result of an electronic vote (that is to say the lists of Members who voted "yea," who voted "nay," and who abstained) be displayed in the National Assembly Chamber as soon as the President has announced the result.

P71 That if the preceding is not feasible, the detailed result be posted as soon as possible on the National Assembly's television channel and in its Web site, thereby allowing the media and the citizens immediate access to it.

3.1.9. Appointment of the Secretary General and of the Associate Secretaries General of the National Assembly and Length of Their Terms of Office

The rule proposed here is in keeping with the process by which other persons acting under the authority of the National Assembly are appointed.

As a basis for comparison the terms of office of the following appointees may be noted:

- the Director General of Elections: seven years, renewable;
- the Public Protector: five years, renewable;
- the Auditor General: ten years;
- the Lobbyists Commissioner: five years, renewable.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P72 That the Secretary General and the Associate Secretaries General of the National Assembly be appointed by the National Assembly on a motion by the Premier carried by two thirds of the Members of the Assembly; and that their term of office be for a period of seven years, renewable.

3.2. COMMITTEES

One of the major objectives of the parliamentary reform undertaken in 1982 was to give parliamentary committees–the foremost setting for the parliamentary activity of individual Members–genuine autonomy of action and initiative.

In December 1999 the Comité de réflexion sur le travail des commissions[20] was assigned the task of "describing the current situation with respect to the operation of committees, identifying the main difficulties encountered in the fulfillment of their duties, and suggesting various solutions to improve their performance."

In their report, entitled *De la nécessité du contrôle parlementaire,*[21] the members of this Committee, after assessing the results of the parliamentary reform of 1982-1984 and before concluding that it was "urgent to act," made some interesting recommendations on which some of the following points are based.

3.2.1. Fields of Competence of Committees

In principle, committees are formed on the basis of their fields of competence. From 1972 to 1984, under the Lavoie Standing Orders, there were nearly 24 committees; their fields of competence corresponded roughly to those of the ministries, and, in each of these fields they carried out all the functions: clause-by-clause consideration of bills, concurrence in estimates of expenditure, etc. There was, however, one exception: The Committee on Financial Commitments was responsible for examining the financial commitments of all the ministries.

With the adoption of the current Standing Orders in 1984 this exception was eliminated; thereafter no committee had any special functional competence.

In 1998 the principle of the specialization of committees strictly according to fields of competence was breached with the creation of the Committee on Public Administration, whose terms of reference were, in particular:

- to examine the financial commitments of all ministries;
- to hear the Auditor General with regard to his or her annual report;
- to hear the ministers, the deputy ministers, and the chief executive officers of public agencies, pursuant to the *Public Administration Act.*

In fact, this latter experience has hardly proved conclusive, since the Committee on Public Administration has fallen quite far behind (in certain cases up to ten years) in examining the financial commitments.[22]

The *Rapport statistique annuel sur les travaux des commissions parlementaires* (annual statistical report on the proceedings of parliamentary committees) illustrates the imbalance that exists among the committees' respective workloads:

- If the Committee on the National Assembly is excluded, in 2000-2001 the committees met for a total of 1,415 hours, or an average of 142 hours each.
- Of this number:
  - 274 hours (19.4%) took place in the Committee on Labour and the Economy;
  - whereas the Committee on Education met for only 31 hours (2.2%).
- In 2001-2002 the committees met for a total of 1,221 hours, or an average of 122 hours each.
- Of this number:
  - 198 hours (16.3%) took place in the Committee on Institutions;
  - the Committee on Agriculture, Fisheries, and Food met for only 19 hours (1.6%).

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P73 That the fields of competence of the committees be reorganized, in particular, to achieve a better balance in their respective workloads and to increase their effectiveness.[23]

3.2.2. Committee on Parliamentary Procedure and Affairs

The following is proposed:

- that the name "Committee on the National Assembly" be changed to "Committee on Parliamentary Procedure and Affairs";

20. Cf Introduction p.1.
21. *De la nécessité du contrôle parlementaire. Pour des commissions parlementaires stimulantes et performantes,* June 2000. http://www.assnat.qc.ca/archives-36leg1se/fra/Publications/rapports/rapref.html
22. Committee on Public Administration, *Rapport des conclusions et des recommandations à la suite de l'audition des sous-ministres et des dirigeants d'organismes publics sur leur gestion administrative* (report on the conclusions and recommendations following the hearing of deputy ministers and chief executive officers of public agencies on their administrative management), December 2003. http://www.assnat.qc.ca/fra/37legislature1/commissions/cap/gestionadmin.htm#ANNEXE1
23. See annex 5: Names and Terms of Reference of the Standing Committees.

- that the membership and the chairship of the Committee on Parliamentary Procedure and Affairs be defined;
- that the Subcommittee on Parliamentary Reform be abolished and its duties transferred to the Committee on Parliamentary Procedure and Affairs;
- that a Coordinating Committee for Committees be established under the authority and responsibility of the Committee on Parliamentary Procedure and Affairs.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P74 That the Committee on the National Assembly be renamed the "Committee on Parliamentary Procedure and Affairs."

P75 That the standing Subcommittee on Parliamentary Reform be abolished and that its duties be transferred to the Committee on Parliamentary Procedure and Affairs.

P76 That the Committee on Parliamentary Procedure and Affairs have the following duties:

- the consideration of all questions regarding the powers and the conduct of proceedings in the Assembly and its committees;
- the examination of the rules of procedure of the Assembly and its committees as well as the making of recommendations in this regard;
- the oversight of the evolution of parliamentary jurisprudence;
- the preparation of the Assembly's annual debate on the organization and the conduct of proceedings in the Assembly and its committees;
- the consideration of and the concurrence in the reports of the Coordinating Committee for Committees (see the proposal on page 28);
- such other duties as may be conferredupon it by statute and by the *Standing Orders;*
- any matter not expressly referred to another committee.

P77 That the Committee on Parliamentary Procedure and Affairs be composed of:

- five representatives of the governing parliamentary group;
- three representatives of the Official Opposition;
- one representative from each other parliamentary group, as the case may be;
- two representatives of the chair and vice-chair of committees;
- the Third Vice-President of the Assembly, pursuant to Standing Order 9;
- and the President of the Assembly.

P78 That, notwithstanding the foregoing, the governing parliamentary group have a majority within the Committee, that is to say at least one more Member than all the Members in Opposition, including the chair and the vice-chair of committees, as the case may be, and the Third Vice-President of the Assembly; that, if necessary, the number of Members in the governing group be increased accordingly.

P79 That, like the chair of the other standing committees, the chair of the Committee on Parliamentary Procedure and Affairs comprise a chair and a vice-chair.

P80 That the President of the Assembly continue to chair the Committee.

P81 That the Third Vice-President of the Assembly be ex officio the vice-chair of the Committee.

P82 That a Coordinating Committee for Committees be established under the authority and responsibility of the Committee on Parliamentary Procedure and Affairs.

P83 That the duties of the Coordinating Committee for Committees be, in particular:

- to determine the respective fields of competence of the committees, to which end it shall have power to specify before which committee a public agency must answer;
- to divide among the various committees the overall budget that is allocated for that purpose;
- to authorize committees to meet else where than in the Parliament Buildings;
- to table an activity report with the Committee on Parliamentary Procedure and Affairs not later than on the second Tuesday in June and on the second Tuesday in December each year, as well as upon request by the full Committee or whenever the Coordinating Committee deems appropriate.

P84 That the Coordinating Committee for committees be Composed of:

- five committee chair;
- three committee vice-chair;
- one Vice-President of the Assembly.

P85 That, notwithstanding the foregoing, the governing parliamentary group have a majority within the Coordinating Committee, that is to say at least one more Member than all the Members in Opposition, including the chair and the vice-chair of committees and the Vice-President of the Assembly, as the case may be; that, if necessary, the number of Members in the governing group be increased accordingly.

P86 That the Vice-President of the Assembly, as a member of the Coordinating Committee for Committees, be its chair ex officio.

P87 That the vice-chair of the Coordinating Committee be elected by and from among its members.

3.2.3. Number of Committees Authorized to Meet Simultaneously

According to the current *Standing Orders* (S.O. 145):

- "[...] up to three committees may meet concurrently during the Orders of the Day";
- "When the Assembly is not in session, up to four committees may meet concurrently."

This double rule not only delays committee proceedings but, above all, systematically penalizes committees that are executing orders of initiative, since: "[...] Such order of reference from the Assembly shall have precedence [S.O. 146]." In other words, when one or another of the limits set by Standing Order 145 is reached, it is always the orders of initiative that are sacrificed.

The goal of the 1984 parliamentary reform was essentially to increase both the independence of the National Assembly with respect to the Government and the autonomy of the committees within the Assembly.

In June 2000, in its report entitled *De la nécessité du contrôle parlementaire*, the Comité de réflexion sur le travail des commissions noted that "[...] the margin for initiative by parliamentary committees represents barely 5% of their total workload. In respect of the surveillance of public agencies the obligation to hear at least one public agency each year has not been met: Fewer than 20 public agencies have been examined in ten years, or barely 20% of the objective that had been set. As for the examination of regulations, committees have almost completely ignored this task. Finally, the verification of the financial commitments has fallen quite far behind in almost all committees."[24]

There is thus good reason to reiterate and even to exceed the recommendations made by the Comité de réflexion sur le travail des commissions in June 2000.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P88 That when the Assembly is in session–except during the Routine Proceedings (up to and including Deferred Divisions)–the following be allowed to meet:

- three committees for the execution of orders of reference from the Assembly;
- one committee for the execution of a statutory order, an order under the *Standing Orders*, or an order of initiative.

P89 That when the Assembly is not in session the following be allowed to meet:

- two committees for the execution of orders of reference from the Assembly;
- three committees for the execution of statutory orders, orders under the Standing Orders, or orders of initiative.

P90 That when the Assembly is not in session the National Assembly Chamber be reserved for meetings of the fifth committee and that priority be given to such meetings.

3.2.4. Hours of Meeting of Committees

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P91 That committees be authorized to meet from Monday through Friday:

- from 9:00 a.m. until 12:30 p.m. (until 11:00 a.m. when the Assembly is in session);
- and from 2:00 p.m. *(or immediately after Deferred Divisions)* until 6:00 p.m.

24. *Op. cit.* In reality, since May 15, 1997, the Committee on Public Administration is the only parliamentary committee that examines the financial commitments. See the proposals for this question in point 4.4.1.: Reorganization of Parliamentary Control.

3.2.5. Appointment of Committee Clerks

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P92 That the words "appointed by the President" in Standing Order 142 be struck out and the words "from the Secrétariat des commissions" (committees secretariat) be substituted therefore.

The new Standing Order 142 would read as follows:

"In each committee there shall be a public servant from the Secrétariat des commissions to act as its clerk."

4. Redefinition of the Relationship BETWEEN THE EXECUTIVE AND THE LEGISLATURE

Finally, this parliamentary reform seeks to redefine the relationship between the Executive and the Legislature by endeavouring to establish a better equilibrium between them.

It is thus proposed:

- That the Assembly be called upon to express more clearly its confidence in the Government.
- That the Government be obliged to provide Members and citizens, in good time, more substantial information about the content of its bills and the consequences of their passage, with respect to the rights and obligations of the persons affected by them.
- That the legislative process be reviewed in order to:
  - ensure a minimum period of time between the signifying of royal assent to an act and its coming into force,
  - render effective the examination of delegated legislation by committees,
  - limit the recourse to exceptional legislative procedures.
- That the National Assembly's means of control over the Executive–estimates of expenditure, financial commitments, accountability by ministries and public agencies, interpellations–be reviewed to make them more efficient and effective.

4.1. EXPRESSION OF THE NATIONAL ASSEMBLY'S CONFIDENCE IN THE GOVERNMENT

4.1.1. Vote on the General Policies of the Government

In the National Assembly the general policies of the Government are made known to the Members at the opening of each session in:

– the Lieutenant-Governor's address;

– and the Premier's opening speech.

The opening speech is followed by a debate of twenty-five hours. During this debate each Member who speaks "may discuss any and all matters. While speaking, he may move a want of confidence motion [S.O. 50]."

At the end of the debate the question is put on each want of confidence motion, but, curiously, the National Assembly does not express its opinion on the general policies of the Government. Its Members are thereby deprived of the opportunity to approve or to censure the Government's main orientations as a whole, since the want of confidence motions that Members move during the debate on the opening speech normally concern specific issues.

In comparison, even though it also gives Members an opportunity to move want of confidence motions, the debate that follows the budget speech relates to the motion by the Minister of Finance "That this Assembly approves in general the budgetary policy of the Government [S.O. 271]." Thus, the National Assembly now has two ways of functioning according to whether the Government's general policy or its budgetary policy is at issue.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P93 That after delivering the opening speech of the session the Premier move that the Assembly approves the general policy of the Government.

P94 That the question be put on this motion at the end of the debate that follows the Premier's speech, after the votes on the want of confidence motions.

4.1.2. Motions of Want of Confidence and Motions of Confidence

A characteristic of our parliamentary system of government resides in the fact that the Premier and his or her Government are responsible before the National Assembly and must retain the support and the confidence of a majority of its Members to remain in office.

This tradition, which is mentioned nowhere in our statutes or in the *Standing Orders of the National Assembly*, is constitutional in nature. It follows that the problem of identifying those matters on which confidence in the Government is at issue does not fall under the jurisdiction of parliamentary procedure and therefore cannot be decided by the President. That is why the very idea of laying this tradition down in a legislative text or in the *Standing Orders* would at the very least be delicate, perhaps even perilous.[25]

Moreover, how is one to clarify an issue that the press sometimes does its best to complicate? When and under what conditions can one consider that the Government has lost the confidence of the Assembly and is for that reason obliged to resign? Is it enough that a want of confidence motion be agreed to with respect to some aspect, sometimes a very specific aspect, of its activity? Is it enough that the Government lose a vote on an ordinary motion, perhaps even a procedural motion? Is it enough that the Government be defeated in a vote on an ordinary bill, even on some stage in the consideration of such a bill? Finally, is it enough that the Assembly agree to some motion that the Government opposes?

25. For example, the carrying by the House of Commons of Canada, on November 5, 2002, of a motion by the Official Opposition despite the opposing vote of the Government, thus placing the Government in a minority on the issue of electing committee chair by secret ballot.

In these circumstances it would behove both the Government and the Assembly to:

- clarify a dubious situation: Did the mover of the motion and his or her supporters really intend to bring down the Government?
- verify the Assembly's constancy of purpose: Might there not be some value in allowing Members until the next day to reflect on their decision?

Consequently, when such a situation arises, why should the Government not immediately and automatically raise a question of confidence?

The automatic nature of placing a motion of confidence on the Order Paper in the Premier's name would make it possible to:

- situate the question of confidence at the level of parliamentary procedure and, accordingly;
- shield it from the arbitrariness of political and media interpretations in order to place it quite simply under the provisions of the Assembly's internal Standing Orders.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P95 That when the Assembly has:

- carried a motion of want of confidence in the Government or,
- negatived any Government motion or bill or,
- carried any motion to which the Government is opposed,

the Premier be deemed to have requested that a notice of a motion of confidence be placed on the Order Paper.

P96 That the motion of confidence be placed on the Order Paper for the next sitting day and that it be deemed to have been moved by the Premier immediately before Business Having Precedence at that sitting.

P97 That this motion be discussed during a limited debate before the question thereon is put.

P98 That this debate suspend all committee proceedings.

P99 That the foregoing provisions not apply to votes taken in committees.

4.2 LEGISLATION

4.2.1. Documents Accompanying Bills

Do the Members of the National Assembly receive enough documentation on the impact of the statutes they are called upon to vote? Members in the Opposition in particular must make do with the research conducted by their assistants and the explanatory notes appearing at the front of bills.

The explanatory notes are also all that citizens have, including those who wish to take a stand on a bill in committee, unless they belong to organized groups that possess research services.

If to the objectives of the present parliamentary reform one adds that of the transparency of the Assembly's proceedings, which should contribute to the development of heightened interest in them on the part of citizens, it seems important that each bill, when it is officially introduced, be accompanied by texts that are more complete and precise than the usual explanatory notes, that is to say by a document on the Government's policy in the area affected by the bill as well as by a document on the bill's financial repercussions should it ultimately be passed.

The explanatory notes summarily present the object of the bill and set forth its main provisions. They may also describe the legal context in which the bill is being introduced and cite the legislative drafting conventions that were used. They must be neutral and neither offer any argument nor express any opinion.

The document on Government policy would highlight the policy and objectives that the Government was pursuing in introducing its bill. It would also note any consultations the Government had conducted as well as the outcome expected from the bill in the areas it was likely to affect, particularly those covered in the various charters. The opportunity it would afford the Government to promote its bill would make the document on the Government's policy a useful complement to the explanatory notes. Private Members who introduced bills, for their part, would have to note any consultations they had undertaken and describe the outcomes expected from their bills in the areas they were likely to affect.

Finally, the document on the financial repercussions of the eventual passage of a bill would provide an estimate of the expected costs of its implementation by the State (Government, ministries, and public agencies) and, where applicable, by local communities, private organizations, companies, and individuals. This document could also give a general idea of the period during which these costs would have to be defrayed as well as an approximation of the degree of certainty of the figures provided.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P100 That when a Government bill is introduced, the minister be obliged to table, in addition to the customary explanatory notes:

- a document on the Government's policy in the area affected by the bill;
- a document on the financial repercussions of the bill both for citizens and for the State.

4.2.2. Lieutenant-Governor's Recommendation

The current procedure at the Assembly for recommending a bill by the Lieutenant-Governor lacks both transparency and rigour.[26]

Without lapsing into the formalism that characterizes the reading of the message from the Lieutenant-Governor recommending the main estimates or the supplementary estimates for the Assembly's consideration, there is room for improvement in making public the Lieutenant-Governor's recommendation relating to the bills that require it, namely bills that allocate some part of the public revenue, imposts, or taxes.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P101 That the Lieutenant-Governor's recommendation required for any bill whose effect is the disbursement of public moneys be published:

- in the Order Paper before the bill is introduced and;
- at the front of the bill or in annex thereto.

P102 That after such bill is introduced, the Lieutenant-Governor's recommendation be reproduced in the Votes and Proceedings of the Assembly.

P103 That when the Lieutenant-Governor's recommendation is required for the passage of a private Member's bill:

- the Government be allowed to obtain it at any stage during the consideration of this bill;
- the Lieutenant-Governor's recommendation be made public in the same way as that for Government bills.

4.2.3. Time Limit Between Royal Assent and the Coming into Force of an Act

Section 5 of the *Interpretation Act* enounces that: "Unless otherwise provided by law, an Act comes into force on the thirtieth day after its assent."

In fact, between March 25, 1996 (the beginning of the second session of the 35th Legislature), and July 16, 2003, the Lieutenant-Governor assented to 146 public bills.

Of these 146 acts:

- 112 (76.7%) came into force on the day they were assented to;
- 20 (13.6%) came into force, or will come into force, by order-in-council;
- 9 (6.1%) came into force less than 30 days after they were assented to;
- 5 (3.4%) came into force more than 30 days after they were assented to.

Thus, only 3.4% of the Acts passed during this seven-year period are certain to have respected the "default" standard set forth in the *Interpretation Act*.

The goal of the 30-day rule, which this reform seeks to make generally applicable, is, in particular, to enable citizens to become acquainted with their rights and obligations more easily. Indeed, if the saying "ignorance of the law is no defence" is to retain its fullest meaning, citizens must have a reasonable amount of time in which to inform themselves before an act is enforced.

26. "According to practice [followed at the Assembly], the recommendation is signified by a minister of the Crown and entails the presumption that the Lieutenant-Governor agrees with it. Pursuant to a ruling by the President, the Chair must take a minister's word when he or she makes such a declaration. As for the moment when this declaration must be made, the Chair of the Assembly also acknowledged that, even though the royal recommendation is usually signified in the Assembly at the beginning of the debate on the passage in principle by the minister who introduces the bill, there is no obligation to do so." *La procédure parlementaire du Québec* (the parliamentary procedure of Québec), p. 298.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P104 That save where the sponsor of a bill (minister or private Member) has, in a statement made during the consideration of this bill, duly justified an exception to this rule, the entry into force of an act be fixed at the thirtieth day after it is assented to or on some later date.

4.2.4. Examination of Draft Regulations and Regulations

The Comité de réflexion sur le travail des commissions[27] studied the issue of the examination of draft regulations and regulations by Members. The data it gathered illustrate the extent of the corpus of legislative and regulatory texts. They reveal that the Government adopts close to a hundred new regulations each year and that the number of pages published in the *Gazette officielle* is four times greater than that of the acts passed each year by the National Assembly.

The Working Group noted in its report that even though parliamentary committees have the authority to examine regulations and draft regulations on their own initiative, they have generally ignored this task since 1984.

Moreover, like the Protecteur du Citoyen and the Barreau du Québec, the Committee believes that Members must be in a position to exercise a certain control not only before a bill is implemented but afterwards as well. It is also of the opinion that parliamentarians ought to be involved in preparing the regulations that result from the passage of a bill and that, to this end, they should ideally have all the legislative and regulatory texts at their disposal in order to give informed consent to the passage of a bill.

Quite obviously, the Working Group concludes, parliamentarians have the duty to monitor adequately the Government's use of its regulatory power; committees can no longer sidestep this responsibility. It thus recommends that the National Assembly draw inspiration from the experience of certain other parliamentary assemblies in order to specify a framework for the examination of regulations and to make it an effective oversight mechanism. As examples it cites the *Standing Orders of the House of Commons* of Canada, which set forth 13 criteria on which the Standing Joint Committee (Senate and House of Commons) for the Scrutiny of Regulations can base the control it exercises over delegated legislation, as well as those of the Legislative Assembly of Ontario, which contain nine criteria.

The Working Group also points out that at certain Parliaments this responsibility has been entrusted to a specialized parliamentary committee. It believes, however, that it is preferable for each committee to develop its own expertise in examining regulations so as to be better able to evaluate the impact of those bills it is also obliged to consider clause by clause.

The Working Group further states that with the help of competent staff and adequate resources (a team of jurists and the use of analytical grids and other relevant tools) committees could do very useful work from the citizens' point of view in highlighting outdated, abusive, or needlessly complex regulations.

Finally, the Working Group recommends that parliamentary committees be obliged to examine at least one existing regulation in their field of competence each year.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P105 That each committee examine at least one regulation or draft regulation within its field of competence each year.

P106 That if the report from a committee on its examination of one or more regulations or draft regulations contains observations or recommendations, such report be discussed during an interpellation.

P107 That guidelines be enunciated for the examination of regulations and draft regulations, in particular the criteria on which committees can base their assessment.

4.3. LEGISLATIVE PROCEDURE

4.3.1. Time Limit for the Passage of a Bill

Politicians and the media play an odd game. Both sides consider it "normal" for the Order Paper to be cleared–or almost cleared–of legislation before the June 23 and December 21 adjournments. To achieve that end, the Government sometimes resorts to suspending certain permanent rules, a practice also known as the "guillotine" or the

27. See point 3.2.: Committees.
28. Gilles Lesage, "Parodie parlementaire" (parliamentary parody), Le Devoir, December 28, 1992.

"gag"–which some observers thereupon denounce, stigmatizing it variously as "a pitiful parliamentary parody"[28] or "a legislative record so meagre as to pale an anorectic."[29]

If this "end-of-session sprint" is to stop, a change of mind-set is required:

- Those in the Government and in the Opposition as well as in the media must acquire the conviction that nothing is more normal upon adjournment in June or in December than to leave bills that the Assembly has not had the time to examine in depth on the Order Paper for consideration when the proceedings resume, especially if they are important.
- The ministries must recognize that the legislative process is not some unavoidable ordeal that the Government House Leader can truncate by means of procedures intended for this purpose. Bills will then ceas to be introduced at the last minute, or their passage will be postponed until the Assembly resumes its proceedings.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P108 That Standing Order 22 be replaced by the following:

> "No bill introduced between the second Tuesday in February and the second Thursday in June or between the second Tuesday in September and the second Thursday in December, or during any prolongation of either sessional period, may be called for final passage during that same period, except with the unanimous consent of the Assembly or pursuant to the provisions of these *Standing Orders* respecting the suspension of certain rules of procedure."

4.3.2. Closure Motion and Motion to Suspend Certain Rules of Procedure

The procedure referred to by the media as the "gag" or the "guillotine" has been described, among other things, as "antidemocratic." This criticism is not new; it has been levelled at successive Governments during recent decades and has, moreover, almost become a leitmotif of the end-of-session periods.[30] Any reform of Parliament that is conceived as an integral part of the process of reforming our democratic institutions must therefore get a firm grip on this problem.

The Westminster parliamentary system is based, among other things, on two principles:

- The first is that in a democracy the parliamentary Opposition must enjoy all the latitude it needs to express its viewpoint on any Government initiative.
- The second is that after reasonable debate the governing majority must be able to obtain the passage of its text.

From these two principles is derived a procedure called "closure" whose purpose is to order a committee to interrupt its clause-by-clause consideration of a particular bill and to report that bill to the Assembly at a specified moment. The Government House Leader is authorized to make use of this procedure, set forth in Standing Orders 249 to 251 of the National Assembly, when he or she considers that the Opposition is engaging in a tactic of systematic obstruction in that committee to delay or even prevent the passage of the bill.

The problem inherent in the "closure" procedure is that the motion-provided for in Standing Order 251 and by means of which the Government House Leader can recall to the Assembly a bill whose consideration is "dragging on and on" in committee-"shall be debated on a future sitting day." However, this debate, which can begin only the next day and grants speaking time to each Member, itself places an additional tool in the Opposition's hands to block the bill. That is one of the reasons successive House leaders have gradually abandoned the closure motion in favour of the motion to suspend certain rules.

The motion to suspend certain rules, provided for in Standing Orders 182 to 184, was not originally intended for use to accelerate the consideration and passage of bills. Generally speaking, its purpose is to set aside one or more permanent rules of procedure during a specific period and for a reason that the motion itself must state. One of the advantages of the motion to suspend certain rules over the closure motion is that "this motion may be discussed in a limited debate" only (S.O. 182), that is to say a debate that "shall last for not more than two hours" (S.O. 210). It is understandable that Government House Leaders have preferred it.

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29. Gilles Lesage, quoted by Réjean Pelletier, "La vie parlementaire," *L'année politique au Québec* 1990-1991 (Parliamentary life, The year in politics in Quebec, 1990-1991), Québec/Amérique, 1992.
30. For example: "*Fin de la session parlementaire. La démocratie encore giflée* (End of the parliamentary session: another slap in the face for democracy). The Centrale des syndicats du Québec (CSQ, Québec central labour body) notes that once again in Québec, unfortunately, a parliamentary session has ended with a gag on bills that were passed posthaste. Nine bills [...] became law today. [...]The CSQ considers that the abusive recourse to the gag as an increasingly frequent means of concluding parliamentary sessions is a stain on Québec democracy and parliamentary government." CSQ, press release, June 21, 2001.

Another advantage of the motion to suspend certain rules is that it is broader in scope than the closure motion. Whereas the latter affects the proceedings of only one committee, which it seeks to conclude, the motion to suspend certain rules may be adapted to suit widely varying situations:

- It can target any and all aspects of the legislative process, from the introduction of a bill up to its final passage and including passage in principle, the committee stage, and the report stage.
- It can even "seek the passage of several bills."[31]

On these last two points the President of the Assembly took it upon himself to state that the motion to suspend certain rules was "not the best tool at the Assembly's disposal for placing time limits on the consideration of a bill in a credible manner and with respect for fundamental democratic principles."[32]

For this last reason, but also to:

- do away with the ritualistic and acrimonious exchanges between the Government and the Opposition concerning the suspension of rules and the reasons advanced for resorting to this measure;
- restore a certain respectability to the Assembly's proceedings;
- reinstate the closure motion and the motion to suspend certain rules in their original purposes and, in that way;
- encourage a rational use of parliamentary procedure;

it seems urgent to:

- remove at least one of the obstacles to using the closure motion;
- expressly limit the ease with which the motion to suspend certain rules can be used.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P109 That the closure motion and the motion to suspend certain rules be readjusted in a way that is more favourable to closure so as to encourage its use in place of the motion to suspend certain rules, and in particular:

- that the debate on the closure motion no longer require notice and that it consequently be allowed to begin on the day such motion is moved; that, furthermore, this debate be limited to two hours;
- that the debate on the motion to suspend certain rules be extended to four hours, except when prior notice of such motion has been given.

P110 That Standing Order 251 be amended by replacing, in the second sentence, the words "shall be debated on a future sitting day" by the words "may be discussed in a limited debate".

The new Standing Order 251 would read as follows:

Closure motion

"If no agreement has been reached, the Government House Leader may thereupon make a motion appointing the time when the committee shall interrupt its proceedings on the bill and report to the Assembly. Such motion, which may be made without notice and cannot be amended, may be discussed in a limited debate; and at the conclusion of this debate the Government House Leader shall be permitted to speak for up to ten minutes in reply."

P111 That it be permissible to draft the motion to suspend certain rules so as to provide for the automatic suspension of any current rule that is at variance with such temporary rule or rules as the Government House Leader may propose.

P112 That Standing Order 182 be amended by inserting, after the words "any other rule or rules that are to apply in its stead.", the following words:

"It may also specify that any Standing Order which may be at variance with the latter shall likewise be deemed suspended.

"Notwithstanding Standing Order 188, this motion may be moved on the day on which notice thereof first appears in the Order Paper."

The new Standing Order 182 would read as follows:

Suspension of certain rules

"The Government House Leader or a minister may move the suspension of any rule of procedure envisaged in the second and third paragraphs of Standing Order 179.

"Such motion shall state the reason for which the suspension of the rule is sought and, where appropriate, any other rule or rules that are to apply in its stead. It may also specify that any Standing Order which may be at variance with the latter shall likewise be deemed suspended.

31. Ruling 182-6, June 18, 1996, from the *Recueil de décisions* concernant la procédure parlementaire (Selected rulings concerning parliamentary procedure).
32. Ruling 182-20, December 19, 2000, *Recueil de décisions concernant la procédure parlementaire*.

"Notwithstanding Standing Order 188, this motion may be moved on the day on which notice thereof first appears in the Order Paper. It may be discussed in a limited debate, but it may be neither amended nor divided."

P113 That Standing Order 183 be replaced by the following:

Motion without notice

"A motion to suspend some rule of procedure may be moved without notice, in which case it may be discussed in a debate that shall last for not more than four hours."

P114 That no motion to suspend certain rules be allowed to permit the consideration and the passage of more than one bill at a time.

P115 That Standing Order 184 be replaced by the following:

Bill

"Such motion may have as its object the consideration of but a single bill; such bill shall be distributed when the motion is made."

4.4. CONTROL OF THE EXECUTIVE

4.4.1. Reorganization of Parliamentary Control

A. ESTIMATES OF EXPENDITURE

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P116 That the National Assembly, through the Committee of the Whole and its standing committees, examine the estimates of expenditure for which the Government requests its authorization.

That to this end it compare:

- on the one hand, "the choices made with regard to the allocation of resources,"[33] that is to say the appropriations requested,

with,

- on the other hand, "the actions envisaged to achieve the objectives stated in the strategic plan"[34]—and, as the case may be, in the statements of services to the public by ministries and budget-funded bodies—as well as the "presentation of the results obtained, measured against the objectives fixed in the strategic plan"[35] for the previous fiscal year.

P117 That during this examination any intervention concerning a financial commitment (as this term is defined in Chapter II of the *Rules for the Conduct of Proceedings of the National Assembly*)–or concerning an expenditure or an approval–relating to an earlier fiscal year be declared out of order, pursuant to Standing Order 211.[36]

B. FINANCIAL COMMITMENTS

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P118 That the Committee on Public Administration verify the financial commitments within two years of the forwarding of the list of commitments to it by the Conseil du trésor (treasury board).

P119 That the Committee give priority to verifying any financial commitments regarding which the Auditor General may have made recommendations or observations in his or her report, including those under $25,000, as the case may be.

P120 That the Committee select, in a deliberative meeting, such other financial commitments as it may wish to verify.

P121 That at the expiry of the above-mentioned period of two years any financial commitments the Committee has not verified be deemed no longer subject to verification, unless the Committee decides otherwise.

C. ACCOUNTABILITY

a. Before the Committee on Public Administration

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P122 That Standing Order 117.6 be replaced by the following:

The Committee on Public Administration shall:

- examine the financial commitments;
- hear the Auditor General every year with respect to his annual report;

33. *Public Administration Act* (R.S.Q., c. A-6.01), section 46.
34. *Ibid.*, section 24.
35. *Loc. cit.*
36. "Speeches shall be directed only to the matter under discussion."

- pursuant to the *Public Administration Act*, hear the deputy ministers or the chief executive officers of public agencies, as the case may be, at least once every four years in order to discuss their administrative management and, as a priority and where applicable, such other administrative matters falling within the terms of reference of these ministries or agencies as shall have been noted in a report from the Auditor General or the Public Protector;
- examine the public accounts;[37]
- consider any other matter that the Assembly may refer to it;
- examine, on its own initiative, any other matter of public interest within its terms of reference.

P123 That any report from the Committee on Public Administration which contains recommendations be debated during an interpellation within six months of its tabling in the Assembly and that this debate be given priority.

b. Before the Other Standing Committees

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P124 That the second paragraph of Standing Order 120 be amended by striking out the word "management".

Standing Order 120, as amended, would read as follows:

"The said committees shall have power, without special reference from the Assembly, to initiate examinations of the following matters:

- draft regulations and regulations;
- the orientation and activities of public agencies;
- any other matter that may be of public interest."

P125 That each committee execute at least one order of initiative each year in one or another of the categories named in the preceding proposal.

P126 That the first paragraph of Standing Order 294 be amended by striking out the word "management".

This paragraph, as amended, would read as follows: "Every committee shall examine each year the orientation and activities of at least one public agency that is subject to its surveillance."

P127 That the statutory orders obliging parliamentary committees other than the Committee on Public Administration to examine the administrative management of a ministry, an administrative unit, or a public agency be repealed or referred to the Committee on Public Administration, designated as the "competent parliamentary committee".

4.4.2. Interpellations

Historically interpellations succeeded "questions with debate," which had been instituted to replace the Friday question period. Their function is thus to allow a Member from the Opposition who has given notice of an interpellation in the Order Paper, together with the other Members of his or her committee, to "dialogue" with the competent minister on a given subject. Over time, however, this approach seems to have been found colourless, drab, and boring, and, consequently, ineffective in capturing the public's attention or sparking its interest. Accordingly, a way to improve it is being sought.

The reform proposes to give priority to interpellations on matters previously examined by committees and on which they have made recommendations. The subjects dealt with would have the advantage of having already been analysed by Members in committee, thereby lending more depth to interpellations.

The following subjects could be given precedence during an interpellation:

- reports from committees on the accountability of ministries and public agencies;
- reports from committees on delegated legislation (regulations and draft regulations);
- any other report from a committee that comprises recommendations.

37. " The public accounts shall comprise:
1) the consolidated financial statements of the Government;
2) information on the revenues, expenditures and other costs of government departments and budget-funded bodies;
3) a statement of the statutory and annual appropriations and of the special warrants for the fiscal year, and of the expenditures and other costs charged against each appropriation or special warrant;
4) a report of the excess of the expenditures and other costs of the departments and budget-funded bodies entered in the accounts for a fiscal year over the appropriations for the same year; and
5) any other information needed to account for the financial position of the Government."
Financial Administration Act (R.S.Q., c. A-6.001), sect.86.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P128 That the subjects to be given precedence during interpellations be reports from committees containing recommendations, that is to say those concerning:

- the accountability of ministries and public agencies;
- delegated legislation (regulations and draft regulations);
- any other matter on which a committee has expressed some formal opinion.

P129 That the other subjects for interpellations be those placed on the Order Paper.

P130 That the subjects for interpellations placed on the Order Paper concern matters that are both precise and of general interest.

P131 That interpellations, two hours in length, take place on Thursday afternoon at 2:00 p.m., or immediately after the conclusion of Deferred Divisions if these are held after 2:00 p.m., during a meeting of the competent committee, and that they be held in a committee room.

P132 That Standing Orders 300 to 303 be amended in such a way as to adapt the procedure to their new purpose and that, in particular:

- the length of the interventions be reduced;
- committee members be allowed to question the Minister in the same way as they do during the consideration of the estimates;
- it be permitted to notice the want of a quorum;
- the committee table its report in the Assembly.

P133 That Standing Orders 94 and 95 concerning debates in the Assembly on reports from committees containing recommendations be repealed.[38]

4.5. MINISTERS IN COMMITTEES

The question of the participation of ministers in committee proceedings, and particularly that of their status in these committees, was examined and vigorously discussed by the reformers of 1982-1984.

The reform tabled in 1982 proposed the following: "During clause-by-clause consideration of a bill the minister sponsoring it would be neither a member nor an intervenor but would appear at the bar of the committee as a representative of Cabinet to defend his or her bill; the minister would be allowed to speak as often as he or she wished and would be able to move amendments [p. 4 and 5]."

Another school of thought wanted to exclude ministers from committees completely. A third preferred the *status quo*. A compromise was reached and an affirmative wording chosen:

- "A minister or a Member who introduces a bill shall be entitled to sit as a participating member of the committee that considers it [S.O. 125]."
- "A minister shall be a member of a committee during its deliberations in pursuance of an order of reference from the Assembly if that order so provides [S.O. 124]."

In reality, the 1984 reform did nothing (or almost nothing) to change the previous situation since:

- Ministers automatically remained members of the committees considering the bills they introduced.
- Almost all other orders of reference specify that the competent minister will be a member of the committee.

THE GOVERNMENT HOUSE LEADER AND MINISTER FOR THE REFORM OF DEMOCRATIC INSTITUTIONS PROPOSES:

P134 That committees be composed exclusively of parliamentarians who are not members of Cabinet.

P135 That, notwithstanding the foregoing, a minister be allowed to take part in the proceedings of any committee on the same basis as a Member who belongs to no committee, pursuant to Standing Order 132, which reads:

38. See point 3.1.4.: Hours of Meeting of the Assembly.

"A Member who has not been appointed to serve on some committee of the Assembly may take part in the proceedings of any of its committees; but he may not vote therein."

P136 That Standing Order 132 be interpreted to allow any minister not only to take part in the proceedings but also to move motions.

P137 That Standing Orders 163 and 164 regarding the hearing of ministers by committees and requests by committees to hear ministers be retained.

P138 That during committee meetings ministers sit at the witness table (with their assistants, as the case may be).

P139 That, notwithstanding the foregoing, a minister be allowed to sit with his or her colleagues when a committee is holding a general or special consultation.

P140 That any minister be empowered in all circumstances to act in the stead of any other minister.

ANNEX 1

PRIVATE MEMBERS' BUSINESS

Proposed Rules for the Conduct of Proceedings

1. Any Member, not being the President of the Assembly or a minister, may hand in to the Secretary General of the Assembly, who shall record it, the text of a bill or a motion whose subject matter falls within the competence of the Assembly.

2. During the week that follows the handing in of such text, or, if the Assembly is not then in session, during the week that follows the resumption of its proceedings, the Secretary General shall forward to the Member a written notice regarding the receivability of his bill or motion.

3. If the notice states that such bill or motion is unreceivable, the Secretary General shall explain the reasons for his opinion.

4. A Member whose bill or motion is, in the opinion of the Secretary General, unreceivable shall have one week in which to forward to the President relevant information and arguments on behalf of the receivability of his bill or motion.

5. During the week that follows the handing in of such information and arguments, or, if the Assembly is not then in session, during the week that follows the resumption of its proceedings, the President shall inform the sponsor of the bill or motion in writing of his ruling on the receivability thereof and shall explain the reasons for his ruling.

6. Any bill or motion declared receivable shall be placed on notice in the Order Paper, pursuant to Standing Orders 232 and 188. Such bill may thereafter be introduced in the Assembly, pursuant to Standing Orders 233 and 234.

7. During the month that follows the opening of the first session of a Legislature–or, if need be, during a Legislature–the President shall select by ballot the names of not more than ten sponsors of bills and ten movers of motions.

8. A Member who is the sponsor of more than one text (bill or motion) standing on the Order Paper shall have 24 hours in which to determine which text shall be retained and shall so inform the President in writing.

9. The President shall forthwith draw up the list of the items of Private Members' Business and, in so doing, shall take into account the order in which they were drawn and shall seek alternation between bills and motions.

10. The list of the items of Private Members' Business shall be published in the Order Paper.

11. Private Members' Business shall be placed on the Orders of the Day for the next sitting after that for which the said list first appears in the Order Paper.

12. When half the items on the list of Private Members' Business have been disposed of, the President shall hold a new ballot in order to complete the said list.

13. All Members may take part in this new ballot and in any subsequent ballots:

    - provided that those Members who are excepted in Rule 1 above may not take part therein;

    - nor may any Member take part therein whose name has been drawn since the opening of the Legislature, save where the number of eligible Members has become insufficient to complete the said list.

14. Except upon the dissolution of the Assembly Private Members' Business shall remain standing on the Order Paper and its consideration may continue during the next session thereafter at the stage it had reached when it was interrupted, unless its sponsor shall otherwise direct.

15. Each item of Private Members' Business may be debated for a period of up to two hours held during two consecutive sittings before the question thereon is put.

16. Unless opposition thereto is taken by five Members, the debate on a bill or a motion may, at its sponsor's request, be extended by one hour.

17. Any Member who does not wish to obtain a decision of the Assembly on his bill or motion shall so inform the President in good time, and the debate on such bill or motion shall accordingly be limited to one hour.

18. The speaking times for debates on Private Members' Business shall be as follows:

    - sponsor (main speech): 15 minutes;
    - all other Members: 10 minutes;
    - sponsor (after each other speech): 1 minute;
    - sponsor (in reply): 5 minutes.

19. During the debate on a bill no hoist motion, no motion to divide the bill, and no motion to put the question without debate may be moved.

20. If a recorded division is held, it shall proceed as follows:

    - the sponsor of the bill or motion, if present;
    - Members in favour of the bill or motion, beginning with those who occupy the last row on the same side of the Assembly as the sponsor, followed by the Members who occupy the last row on the other side of the Assembly, and so on until the first row of each side of the Assembly has voted;
    - the Members opposed to the bill or motion, in the same sequence;
    - the Members abstaining, in the same sequence.

ANNEX 2

APPROPRIATIONS "TO BE VOTED" BY THE NATIONAL ASSEMBLY

Year	Total appropriations	Appropriations to be voted	Percentage of total appropriations
1978-1979	$30,935,900	$20,682,300	66.8%
1979-1980	$33,133,800	$24,169,900	72.9%
1980-1981	$37,744,500	$28,172,000	74.6%
1981-1982	$42,837,700	$31,347,000	73.1%
1982-1983	$47,528,400	$34,431,900	72.4%
1983-1984	$58,697,800	$15,525,000	26.4%
1984-1985	$86,000,000	$18,200,400	21.1%
1985-1986	$56,902,400	$10,683,900	18.7%
1986-1987	$60,039,300	$9,759,100	16.2%
1987-1988	$56,227,300	$9,355,200	16.6%
1988-1989	$63,648,900	$0,000,000	00.0%
1989-1990	$66,408,600	$0,000,000	00.0%
1990-1991	$77,863,800	$0,000,000	00.0%
1991-1992	$82,002,900	$0,000,000	00.0%
1992-1993	$81,066,600	$0,000,000	00.0%
1993-1994	$77,023,700	$0,000,000	00.0%
1994-1995	$76,407,700	$0,000,000	00.0%
1995-1996	$72,118,700	$0,000,000	00.0%
1996-1997	$72,913,700	$0,000,000	00.0%
1997-1998	$66,917,400	$0,000,000	00.0%
1998-1999	$67,082,600	$0,000,000	00.0%
1999-2000	$73,351,100	$0,000,000	00.0%
2000-2001	$81,093,600	$0,000,000	00.0%
2001-2002	$94,790,000	$0,000,000	00.0%
2002-2003	$93,990,000	$0,000,000	00.0%
2003-2004	$92,870,300	$0,000,000	00.0%
2004-2005	$94,208,000	$0,000,000	00.0%

ANNEX 3

PARLIAMENTARY CALENDAR AND HOURS OF MEETING

	Under the current Standing Orders[1]		Under the reform proposal[2]	
Month	**Days[3]**	**Hours[3]**	**Days[3]**	**Hours[3]**
January	---	---	---	---
February	---	---	09	063
March	11	066	14	098
April	13	078	10	070[4]
May	14	104[5]	12	084
June	14	140	06	042
Total Spring	**52**	**388**	**51**	**357**
July	---	---	---	---
August	---	---	---	---
September	---	---	09	063
October	06	036	09	063[4]
November	14	096[6]	13	091
December	12	120	05	035
Total Fall	**32**	**252**	**36**	**252**
TOTAL 2004	**84**	**640**	**87**	**609**

1. In reality the Assembly held:
   77 sittings in 1999-2000 and sat for: 426 hrs 22 min in 1999-2000
   71 sittings in 2000-2001 435 hrs 22 min in 2000-2001
   78 sittings in 2001-2002 475 hrs 38 min in 2001-2002
   65 sittings in 2002-2003 331 hrs 20 min in 2002-2003
2. Three sittings/week (from Tuesday to Thursday); seven-hour-long sittings: 9:30 a.m.–12:30 p.m. and 2:00 p.m.–6:00 p.m.
3. Reference year: 2004.
4. Suspension of the Assembly's proceedings for two weeks: one in April, the other in October.
5. Nine six-hour sittings; five ten-hour sittings.
6. Eleven six-hour sittings; three ten-hour sittings.

ANNEX 4

ROUTINE PROCEEDINGS AND ORDERS OF THE DAY

9:30 a.m. Moment of Reflection

Orders of the Day
- Business Having Precedence
- Urgent Debates
- Other Business Standing on the Order Paper
- Opposition Members' Business *(Wednesday)*

10:45 a.m. *(The business under consideration in the Assembly is deemed adjourned; committees interrupt their proceedings)*

Routine Proceedings
- Statements by Members

11:00 a.m.
- Oral Questions and Answers
- Statements by Ministers
- Introduction of Bills
- Motions without Notice *(new proposed Standing Order 84)*
- Presenting:
  - Papers;
  - Reports from Committees;
  - Notices of Proceedings in Committees:
    - by the Government House Leader,
    - by the President.
- Information on the Proceedings of the Assembly
- Deferred Divisions
- *(Committees may resume their proceedings)*
- Oral Answers to Petitions
- Complaints of Breach of Privilege or Contempt and Personal Explanations

Orders of the Day–continued *(if the Routine Proceedings have been concluded)*

12:30 p.m. Suspension of the Proceedings

2:00 p.m. **Routine Proceedings**–continued and concluded *(if need be)*
or
Orders of the Day–continued

5:00 p.m. *(The business under consideration in the Assembly is deemed adjourned)*
- Private Members' Business

6:00 p.m. Debates Upon Adjournment
or
Adjournment of the Proceedings

ANNEX 5

NAMES AND TERMS OF REFERENCE OF THE STANDING COMMITTEES

1. Committee on Parliamentary Procedure and Affairs

- Consideration of all questions concerning the powers and the conduct of proceedings of the Assembly and its committees
- Examination of the Standing Orders of the Assembly and its committees as well as the formulation of recommendations in this regard
- Oversight of the evolution of parliamentary jurisprudence
- Preparation of the annual debate in the Assembly on the organization and the conduct of the proceedings of the Assembly and its committees
- Examination of and concurrence in the reports of the Coordinating Committee for Committees
- Such other functions as may be conferred upon it by statute and by the *Standing Orders*
- Any matter not expressly referred to some other committee

1.1 Coordinating Committee for Committees

- Determination of the terms of reference of the various committees, including the power to specify before which committee a public agency must answer
- Allocation among the various committees of the overall budget allotted for this purpose
- Authorization for committees to sit outside the Parliament Buildings
- Tabling of an activity report with the Committee on Parliamentary Procedure and Affairs not later than on the second Tuesday in June and on the second Tuesday in December of each year, as well as upon request by the full Committee and whenever the Coordinating Committee deems it appropriate.

2. Committee on Public Administration

- Financial commitments
- Auditor General on his or her annual report
- Ministries and agencies noted in a report from the Auditor General or the Public Protector
- Administrative management of the ministries and public agencies
- Public accounts
- Orders of reference from the Assembly
- Orders of initiative

3. Committee on Institutions

- Chairship of the Conseil exécutif
- Justice
- Public security
- Constitution
- Aboriginal affairs
- Intergovernmental relations

4. Committee on Public Finance

- Finance
- Budget
- Revenue
- Government administration
- Public service
- Supply and services

5. Committee on Social Affairs

- Health
- Social and community services
- Recreation
- Sport
- Housing

6. Committee on the Economy

- Energy
- Natural resources (forests, mines, etc.)
- Agriculture
- Fisheries
- Food
- Trade
- Tourism

7. Committee on Labour

- Labour
- Manpower
- Vocational training
- Income security
- Pension plans

8. Committee on Culture and Education

- Culture
- Education
- Science
- Technology

9. Committee on the Environment, Planning, and the Public Domain

- Environment
- Wildlife and parks
- Municipal affairs and local communities
- Transportation

10. Committee on Relations with Citizens

- Communications
- Family
- Seniors
- Status of women
- Youth
- Immigration
- Cultural communities

10.1 Subcommittee on Petitions

For information, please contact your elected Member:

- by postal mail:

  Hôtel du Parlement
  Québec (Québec) G1A 1A4

- by e-mail by consulting the address list for the elected Members on the National Assembly's Web site at: http://www.assnat.qc.ca

You can also contact the Government House Leader and the Minister for the Reform of Democratic Institutions:

- by postal mail:

  Office of the Government House Leader
  Minister of the Reform
  of Democratic Institutions
  Édifice Pamphile-Le May
  1045, rue des Parlementaires, bureau 1.39
  Québec (Québec) G1A 1A4

- by e-mail:
  ministre.srid@mce.gouv.qc.ca

You can also consult the Web site of the Secrétariat à la réforme des institutions démocratiques at: www.mce.gouv.qc.ca/srid

Bibliothèque de l'Assemblée nationale
Service de la référence – Secteur du prêt
Édifice Pamphile-Le May
1035, rue des Parlementaires
Québec (Québec) G1A 1A3

DATE DE RETOUR	

Québec

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